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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 47 (DC)

5 MAHMOUD THIAM,

6 Defendant.

Trial

7 -----x

8 New York, N.Y.

9 May 1 , 2017

9:00 a.m.

10 Before:

11 HON. DENISE COTE,

12 District Judge,  
13 and a Jury

14 APPEARANCES

15 JOON H. KIM

16 Acting United States Attorney for the  
Southern District of New York

17 BY: ELISHA J. KOBRE

CHRISTOPHER J. DiMASE

Assistant United States Attorney

18 -and-

19 U.S. DEPARTMENT OF JUSTICE

20 BY: LORINDA I. LARYEA

21 LAW OFFICE OF AARON GOLDSMITH, PC

Attorneys for Defendant

22 BY: AARON M. GOLDSMITH, ESQ.

MICHAEL DELAKAS, ESQ.

23 ALSO PRESENT: PATRICK KILLEEN, Special Agent, FBI

24 ALEXANDER BEER, Paralegal Specialist, USAO

KATHERINE BOSLEY, Paralegal Specialist, DOJ

25 JENNIE CARMONA, Defense Paralegal

EMMANUEL I. ORJI, Interpreter (French)

SOUTHERN DISTRICT REPORTERS, P.C.

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(Trial resumed; jury not present)

THE COURT: Good morning, everyone.

ALL COUNSEL: Good morning.

THE COURT: I have one issue to raise with counsel, before I ask if you have issues to raise with me. It concerns Juror No. 10, who was formerly Juror No. 11. It's Ms. Dunbar. About 5:30 on Thursday, Ms. Dunbar approached me on the sidewalk. I hate to admit to counsel I was leaving at around 5:30 Thursday, but she was still around. I didn't recognize her at first. It says more about my eyesight than anything else, and for all I knew she was just someone who was going to ask directions somewhere. But when she said "Judge" -- I was about a block away from the courthouse -- I realized she knew I was a judge and became more alert to the fact that she was talking to me. And she said something about her employer, and I said, "I cannot talk with you. There is no court reporter here." She called Ms. Rojas then the next day, or that same day, later, and reported that her employer would not pay her for this week's jury service. As I understand the law, an employer is only required to follow their customary procedures. Obviously anyone serving as a juror gets a daily stipend, but there is no other source of compensation.

So that was what I was planning to raise with you today. But Ms. Rojas received another call from the same juror, who reported that she is very ill, cannot attend court

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1 today. Her voice -- it was a voicemail message -- sounded  
2 horrible to Ms. Rojas. It sounded like it was genuine illness.  
3 And the message in effect indicated that she would make every  
4 effort to come in tomorrow if she felt better and I wanted her  
5 to do so. So let me just confirm with Ms. Rojas that I've  
6 accurately conveyed that.

7 Good. So counsel, I obviously want you to discuss  
8 these issues with each other, but my recommendation is, since  
9 we have three alternates, that we excuse Ms. Dunbar and are  
10 left with two remaining alternates. And I'll give you a moment  
11 after we complete today's discussion of any other issues to  
12 consult with each other regarding that.

13 So does the government have any issues today?

14 MR. KOBRE: We do, your Honor. Three issues on some  
15 evidence that was offered on Thursday, and I'll go through the  
16 issues one by one.

17 THE COURT: Offered and received?

18 MR. KOBRE: Offered and received, your Honor.

19 So the first concerns what was Government's  
20 Exhibit 1401, which is a stipulation involving several property  
21 records. The stipulation referred to exhibits -- well, let me  
22 step back. During the course of the direct examination of  
23 Agent Killeen, two exhibits were displayed to the jury. The  
24 numbers, those exhibits were not in evidence. However --

25 THE COURT: Which exhibit numbers?

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1 MR. KOBRE: They were Exhibit Nos. 202 and 206. Your  
2 Honor, those exhibits are in evidence but they were under a  
3 different exhibit number, so in essence, they were referred to  
4 under the wrong exhibit numbers. The way this came about was  
5 that the exhibit numbers in the stipulation had been changed  
6 but the sticker numbers on the actual exhibits themselves had  
7 not been.

8 THE COURT: Okay. So 202 and 206 have been received  
9 in evidence on the record, but the numbers belong to different  
10 documents.

11 MR. KOBRE: So 205A is 202 and 205C is 206. And 202  
12 and 206 were both received into evidence, but they were  
13 referred to and had been stickered and put up before the jury  
14 as 205A and 205C.

15 We discussed this with defense counsel, your Honor,  
16 and we've prepared a revised stipulation, and we are in  
17 agreement between the parties to just correct those numbers.  
18 It's essentially the same stipulation.

19 THE COURT: Okay. Thank you.

20 MR. KOBRE: Did your Honor want us to read that, the  
21 revised stip with the new numbers, on the record as well and  
22 offer the revised stip?

23 THE COURT: Yes.

24 MR. KOBRE: Thank you, Judge.

25 We would ask to replace this stipulation. In other

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1 words, would the Court be agreeable to actually replacing the  
2 stipulation so that it would have the same number, the  
3 stipulation itself would be the same numbered exhibit?

4 THE COURT: Okay. So any admission or receipt of  
5 evidence has to happen on the record before the jury, number  
6 one.

7 Number two, clarity of the record is important, both  
8 for the jury, for me, for you, potentially for the Court of  
9 Appeals.

10 I am not sure I understand what the substitution of  
11 the stipulation is going to achieve. I think it should be a  
12 separate numbered stipulation that explains the substitutions.  
13 Otherwise, I think it's going to be utterly confusing. I am  
14 slightly confused myself now and I've been taking notes.

15 Okay. So, next.

16 MR. KOBRE: Yes, your Honor. So the next issue  
17 pertains to Government Exhibit 1405. That was a stipulation  
18 which involved emails. And again, we discussed this with  
19 defense counsel. The stipulation was, in a sense, with respect  
20 to several of the emails that were offered, factually incorrect  
21 insofar as it stated that five of the roughly 45 emails that  
22 were offered under the stipulation had come from a particular  
23 email account when in fact only those five had come from  
24 different email accounts. So we have now revised that  
25 stipulation as well to explain where those five emails had in

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1 fact come from and also, in agreement with defense counsel,  
2 added a new email that the government wishes to offer.

3 THE COURT: Okay.

4 MR. KOBRE: So that's with respect to the email  
5 stipulation.

6 And then finally, your Honor, Government Exhibit 1415,  
7 which was a stipulation regarding bank records from Wachovia  
8 Bank, that stipulation offered Exhibit 105, which is a CD  
9 containing bank records. During the direct examination of  
10 Special Agent Killeen, Exhibits 105A and 105B were referred to.  
11 They are pages from Government Exhibit 105, which is in  
12 evidence, but Government Exhibit 105 does not contain any items  
13 designated 105A and 105B. For that, your Honor, we don't think  
14 a new stipulation is required. We've marked Exhibits 105A and  
15 105B now, which are from 105, and we plan to, during the direct  
16 examination of Special Agent Killeen, simply show them to him  
17 and have him explain that these are from the bank records that  
18 he had reviewed, which are in evidence.

19 THE COURT: I think you should separately offer them  
20 on the record so there's clarity there.

21 MR. KOBRE: We will do that, your Honor.

22 THE COURT: Fine.

23 MR. KOBRE: If I can just come back for one moment?

24 THE COURT: Now as I remember, we had confusion about  
25 106C and D, or at least 106C on the record during the testimony

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1 of the witness.

2 MR. KOBRE: Your Honor, we have cleared that issue up.  
3 There will not be a 106C or D. There will simply be a 106A and  
4 a 106B. I'm sorry. I'm sorry. Just one moment, your Honor.

5 Your Honor, I'm going to take a look at the  
6 stipulation right now.

7 THE COURT: I want to thank you, Mr. Goldsmith, with  
8 your cooperation with the government as it figures out what  
9 exhibit numbers apply to its documents.

10 MR. GOLDSMITH: Thank you, your Honor. Clearly these  
11 are immaterial issues.

12 THE COURT: Yes. But some counsel would be tempted to  
13 make a fuss about it, so thank you.

14 MR. KOBRE: Thank you, Judge. So it is 106A and B,  
15 and there will not be a C and D. And 106A and B are included  
16 in the stipulation.

17 THE COURT: Yes. They were received in evidence on  
18 the record.

19 MR. KOBRE: That's right, your Honor.

20 THE COURT: Okay. Any other issues from the  
21 government?

22 MR. KOBRE: Your Honor, if I can just come back, in  
23 terms of -- I mean, we've modified the stipulations, the ones  
24 we discussed regarding the property records and the email  
25 account, to designate them with the correct exhibit numbers. I

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1 think your Honor had suggested before that maybe the  
2 stipulation would make some recitation about the substitution.  
3 We can do that now very quickly.

4 THE COURT: What do you mean "we can do that now very  
5 quickly"?

6 MR. KOBRE: In other words, the stipulations as we've  
7 revised them now don't explain that they are substitute  
8 stipulations. They simply contain the correct exhibit numbers.

9 THE COURT: Okay. So for instance, why don't you say  
10 1401A and add in handwriting, "This stipulation is a substitute  
11 for 1401."

12 MR. KOBRE: Yes, your Honor.

13 THE COURT: Okay. Or I'm sure you'll come up with a  
14 better solution, but whatever you think of that just adds some  
15 clarity.

16 Great. Anything else, Mr. Kobre?

17 MR. KOBRE: No, your Honor.

18 THE COURT: Mr. Goldsmith, anything to raise this  
19 morning?

20 MR. GOLDSMITH: The government informed me over the  
21 weekend that there were going to be some summary charts, some  
22 additional summary charts they were going to seek to admit  
23 through Agent Killeen in the remainder of his testimony this  
24 morning. In sum and substance they are pie charts. There are  
25 two pie charts that evidence the proportionate share of



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1 deposits into the Hong Kong account. They come from Mr. Pa or  
2 Ms. Feng versus other sources. There is a third summary chart  
3 that is essentially a timeline.

4 I'm sorry. I'm being corrected. They're not going to  
5 seek to introduce the timeline.

6 So as far as the two pie charts go, again, the defense  
7 would object to the admission of any summary charts into  
8 evidence, and again, they are simply demonstrative pieces that  
9 have been created by the government. They are not evidence.  
10 And we feel that they may in some way prejudice the jury as it  
11 relates to Mr. Thiam.

12 THE COURT: Thank you. I will accept the pie charts  
13 as evidence so long as they accurately reflect the underlying  
14 evidence that they summarize, and hearing no dispute that they  
15 do, they will be received in evidence when offered.

16 Okay. So do you want to briefly consult with each  
17 other about our ill juror who also has salary issues?

18 MR. KOBRE: Yes, Judge.

19 Your Honor, I've spoken with defense counsel, and  
20 given the circumstances, we agree with your Honor's suggestion  
21 that the juror be dismissed and an alternate be substituted.

22 THE COURT: Any objection from counsel to having  
23 Ms. Rojas communicate that with her so while she's ill, she's  
24 not feeling pressure to try to show up tomorrow?

25 MR. KOBRE: No objection.

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1 MR. GOLDSMITH: No objection.

2 THE COURT: Thank you so much. Good.

3 So we'll see you at 9:30 or as soon as Ms. Rojas tells  
4 us the remaining jurors have assembled.

5 THE DEPUTY CLERK: All rise.

6 (Recess)

7 (Continued on next page)

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(In open court; jury not present)

THE COURT: Please be seated. The witness is on the stand.

THE COURT: Bring in the jury.

(Jury present)

THE COURT: Good morning, ladies and gentlemen. I want to apologize that our morning refreshments, for some reason beyond Ms. Rojas' control, did not appear. We'll take a morning recess earlier than normal this morning.

Sadly, we've lost one of your number, through no fault of her own, and again, this underscores how important our alternates are. We have two jurors who originally were alternates now among the 12, and we have two remaining alternates, so I want to do a couple of things. I want to thank you all for being so prompt this morning. It is deeply appreciated. We know how important your time is. Counsel have worked very hard to try this case efficiently so you can get back to your regular lives, but you've made a commitment to jury service, and of course, it's only through that commitment that our court system deliver justice for the parties. So thank you.

And secondly, remember, alternates, listen as carefully as everyone else does, because you may be deliberating jurors. Thank you so much.

I remind the witness he's still under oath.

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1 Counsel.

2 PATRICK KILLEEN, resumed.

3 MR. DiMASE: Your Honor, before we begin with the  
4 witness, we do have several additional stipulations to read to  
5 the jury. Should I do that now?

6 THE COURT: Yes.

7 MR. DiMASE: Thank you. I'll use the podium.  
8 Initially, I have two revised stipulations, which I can read.

9 At the end of the preliminary paragraph, and this is  
10 marked as Government Exhibit 1401R for identification, it  
11 indicates that:

12 "This stipulation revises and replaces Government  
13 Exhibit 1401, and further, that:

14 "Government Exhibit 201 is a true and correct copy of  
15 a Dutchess County clerk recording page and deed, dated November  
16 13, 2010, for the sale of real property located at 771 Duell  
17 Road, Millbrook, New York, 12545, which is in the town of  
18 Stanford, New York, the Dutchess County property.

19 "Government Exhibit 203 is a true and correct copy of  
20 a Dutchess County clerk recording page, dated May 11, 2012, for  
21 the sale of the Dutchess County property.

22 "Government Exhibit 204 is a true and correct copy of  
23 a form RP5217, New York State real property transfer report,  
24 dated May 11, 2012, for the May 11, 2012, sale of the Dutchess  
25 County property.

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1 "Government Exhibit 205 is a true and correct copy of  
2 an application for a building permit for the Dutchess County  
3 property, which is filed with the town of Stanford, New York.

4 "Government Exhibit 205A is a true and correct copy of  
5 a form RP5217, New York State real property transfer report,  
6 dated November 19, 2010, for the November 13, 2010, sale of  
7 Dutchess County property; and

8 "Government Exhibit 205C is a true and correct copy of  
9 formation documents for a New York State limited liability  
10 corporation named 771 Duell Road LLC.

11 "It is further stipulated and agreed that this revised  
12 stipulation, which is marked as Government Exhibit 1401R, and  
13 Government Exhibits 201, 203, 204, 205, 205A and 205C may be  
14 received as Government Exhibits at trial.

15 Your Honor, we would offer this Exhibit, 1401R.

16 THE COURT: Yes, and those enumerated exhibits. They  
17 are received.

18 MR. DiMASE: Thank you.

19 (Government Exhibits 1401R, 201, 203, 204, 205, 205A,  
20 and 205C received in evidence)

21 MR. DiMASE: Then a second revised stipulation, which  
22 also reads at the end of the paragraph:

23 "This stipulation revises and replaces Government  
24 Exhibit 1405, and further, that:

25 "Google Inc. operates a web-based electronic mail

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1 (hereafter 'email') service known as Gmail.

2 "In or about January 2015, a search warrant  
3 (hereinafter the 'Thiam Google search warrant') issued by a  
4 United States magistrate judge for the Southern District of New  
5 York was served on Google."

6 And by the way, I'm reading from what has been marked  
7 as Government Exhibit 1405R for identification.

8 "The Thiam Google search warrant directed Google to  
9 produce all stored emails and other stored content information  
10 from the email account mahmoud.thiam@gmail.com. Google  
11 complied with the Thiam Google search warrant by providing a  
12 true and accurate copy of the stored emails and other stored  
13 content information in that account to the Federal Bureau of  
14 Investigation, New York, New York.

15 "Government Exhibit 500 is a thumb drive containing  
16 true and correct copies of emails from the email account  
17 mahmoud.thiam@gmail.com produced by Google in response to the  
18 Thiam Google search warrant.

19 "Government Exhibits 501 through 506, Government  
20 Exhibits 508 through 514, Government Exhibits 516 through 540,  
21 and Government Exhibit 544 are certain emails copied from  
22 Government Exhibit 500.

23 "Government Exhibits 506T, 509T, 510-T, 511-T, 512-T,  
24 514-T, 517-T, 519-T, 525-T, 527-T, 530-T, 531-T, and 536-T are  
25 true and accurate English translations of the French-language

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1 portions of the corresponding government exhibits.

2 "Google user information records show that the email  
3 account mahmoud.thiam@gmail.com has, since on or about April 8,  
4 2005, been registered to 'Mahmoud Thiam.'.

5 In or about July 2015, a search warrant (hereinafter  
6 the 'Dioum Google search warrant') issued by a United States  
7 magistrate judge for the Southern District of New York was  
8 served on Yahoo -- I'm sorry, on Google. Thiam Google search  
9 warrant directed Google. The Dioum Google search warrant  
10 directed Google to produce all stored emails and other stored  
11 content information in the email account  
12 dioum.amadou@gmail.com. Google complied with the Dioum Google  
13 search warrant by providing a true and accurate copy of the  
14 stored emails and other stored content information in that  
15 account to the Federal Bureau of Investigation, New York, New  
16 York.

17 "Government Exhibit 515 is a true and correct copy of  
18 an email from the email account dioum.amadou@gmail.com,  
19 produced by Google in response to the Dioum Google search  
20 warrant.

21 Yahoo! Inc. operates a web-based electronic mail  
22 service.

23 "In or about July 2015, a search warrant (hereinafter  
24 the 'Yahoo! search warrant') issued by a United States  
25 magistrate judge for the Southern District of New York was

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1 served on Yahoo!. The Yahoo! search warrant directed Yahoo! to  
2 present all stored emails and other stored content information  
3 in the email account kumar\_sanath2003@yahoo.com. Yahoo!  
4 complied with the Yahoo! search warrant by providing a true and  
5 accurate copy of the stored emails and other stored content  
6 information in that account to the Federal Bureau of  
7 Investigation in New York, New York.

8 "Government Exhibits 541, 542, 543, and 545 are true  
9 and correct copies of certain emails from the email account  
10 kumar\_sanath2003@yahoo.com by Yahoo! in response to the Yahoo!  
11 search warrant.

12 "Government Exhibit 507 is a true and correct copy of  
13 an email sent from Fatim Thiam's fthiam@saheliahome.com F too  
14 many and saheliahome.com email account to the defendant's  
15 mahmoud.thiam@gmail.com email account, dated October 13, 2010.

16 "It is further stipulated and agreed that this revised  
17 stipulation, which is marked as Government Exhibit 1405R, and  
18 Government Exhibits 501 through 545" --

19 THE COURT: I take it each of the exhibits whose  
20 numbers you've already read.

21 MR. DiMASE: Yes, your Honor, 501 through 545, and the  
22 enumerated T exhibits I've already mentioned. We would offer  
23 all of those exhibits to the extent they are not already in  
24 evidence.

25 THE COURT: Received.



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MR. DiMASE: Thank you.

(Government Exhibits 1405R, 501-545, 506-T, 509-T, 510-T, 511-T, 512-T, 514-T, 517-T, 519-T, 525-T, 527-T, 530-T, 531-T, and 536-T received in evidence)

MR. DiMASE: Also, your Honor, we would offer 1405R, the revised stipulation, into evidence.

THE COURT: Yes.

MR. DiMASE: I'm now going to read what's been marked for identification as Government Exhibit 1408:

"Government Exhibit 101 is a CD containing true and correct records maintained by HSBC Bank U.S.A., N.A. ('HSBC U.S.A.') pertaining to HSBC U.S.A. checking account number 6287466733 and associated savings account number 628624816, both in the name of Mahmoud Thiam (the 'Thiam HSBC U.S.A. accounts').

Government Exhibits 102A, 102B, 102C, 102D, 102E, 102F, 102G, and 102H consist of true and correct account-opening, account-closing, and due diligence records maintained by HSBC U.S.A. in connection with the Thiam HSBC U.S.A. accounts. The information contained in Government Exhibit 101 and Exhibits 102A through 102H was recorded by someone with knowledge at HSBC U.S.A. at or near the time the activity took place, was kept in the course of regularly conducted activity at HSBC U.S.A., and was made as a regular practice of that activity.

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1            "It is further stipulated and agreed that this  
2 stipulation, marked as Government Exhibit 1408, and Government  
3 Exhibits 101 and 102A through 102H may be received as  
4 Government Exhibits at trial."

5            And your Honor, the government would offer  
6 aforementioned exhibits, including the stipulation marked 1408.

7            THE COURT: Received.

8            (Government Exhibits 1408, 101, and 102A-102H  
9 received in evidence)

10           MR. DiMASE: Finally, a stipulation marked for  
11 identification as Government Exhibit 1414:

12           "At all times relevant to the charges in this case,  
13 the defendant, Mahmoud Thiam, was a United States citizen and  
14 maintained a valid United States passport. At all times  
15 relevant to the charges in this case, the defendant, Mahmoud  
16 Thiam, was also a Guinean citizen. From in or about January  
17 2009 through in or about December 2010, Mahmoud Thiam  
18 maintained a valid Guinean passport identifying him as a  
19 minister in the Republic of Guinea."

20           This is signed by the parties, and the government  
21 would offer Government Exhibit 1414, this stipulation, into  
22 evidence.

23           THE COURT: Received.

24           (Government Exhibit 1414 received in evidence)

25           MR. DiMASE: Thank you.

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Killeen - Direct

1 DIRECT EXAMINATION (cont'd)

2 BY MS. LARYEA:

3 Q. Special Agent Killeen, during your testimony last Thursday,  
4 you reviewed some documents about the purchase of the 771 Duell  
5 Road property in Dutchess County. Is that correct?

6 A. That's correct.

7 Q. As part of that testimony, you read portions of bank  
8 records of a Thomas McGregor, is that correct?

9 A. That is correct.

10 Q. Agent Killeen, could you remind the jury who Thomas  
11 McGregor is, based on the records we reviewed last Thursday?

12 A. Thomas McGregor was the attorney for the buyer of the  
13 property on Duell Road up in Dutchess County.

14 Q. Agent Killeen, I'm handing you what has been marked as  
15 Government Exhibits 105A and 105B. Could you please review  
16 these documents. Agent Killeen, what is Government Exhibit  
17 105A?

18 A. 105A is a bank account statement for a Wachovia Bank  
19 account under the name of Thomas C. McGregor, Esq. It's for  
20 the month of October 30, 2010, to November 30, 2010.

21 Q. And what is Government Exhibit 105B?

22 A. 105B is a withdrawal slip for that account I just mentioned  
23 at Wachovia Bank by Thomas McGregor for \$375,000.

24 Q. Where did these pages come from?

25 A. I'm sorry?

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Killeen - Direct

1 Q. Where did these pages come from, these -- 105A and 105B?

2 A. They came from the records received from Wachovia Bank per  
3 a legal request.

4 Q. And the records received for a Thomas McGregor from  
5 Wachovia Bank has already been admitted as Government Exhibit  
6 105. Is that correct?

7 A. That's correct.

8 MS. LARYEA: At this time, your Honor, the government  
9 offers Government Exhibits 105A and 105B into evidence.

10 THE COURT: Received.

11 MR. GOLDSMITH: No objection.

12 THE COURT: Thank you.

13 (Government Exhibits 105A and 105B received in  
14 evidence)

15 MS. LARYEA: Mr. Beer, will you please publish  
16 Government Exhibit 507.

17 Q. Agent Killeen, have you reviewed this document?

18 A. I have.

19 Q. What is it?

20 A. This is an email string. This page is an email from Fatim  
21 Thiam to Mahmoud Thiam.

22 Q. And what is the date of this email?

23 A. The date is October 13, 2010.

24 Q. And what is the subject of the email?

25 A. Subject Reinhardt to SSNL premises Stanford and Washington.

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Killeen - Direct

1 Q. Now, the first word, Reinhardt, based on the documents you  
2 reviewed on Thursday, did you see that name written?

3 A. Yes.

4 Q. And what was, where did you see that name?

5 A. That was the representative of the seller of the property.

6 Q. Now, under subject, it mentions an attachment. Was there a  
7 document attached to this email?

8 A. There was.

9 MS. LARYEA: Mr. Beer, will you please publish page 4  
10 of Government Exhibit 507.

11 Q. Agent Killeen, have you seen this document?

12 A. I have.

13 Q. What is it?

14 A. This is a letter from Shawn Borrelli Pratt, the attorney  
15 for the seller of this property, to Thomas C. McGuire.

16 Q. McGuire?

17 A. McGregor. I'm sorry.

18 Q. What is the date of this letter?

19 A. October 12 of 2010.

20 Q. And could you read the section, the first line of this  
21 letter under "Dear Mr. McGregor"?

22 A. "Attached please find a draft of contract of sale for the  
23 above-captioned matter."

24 Q. And what is, if you go back up to the above-captioned  
25 matter, what is the re? Do you see where it says re?

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Killeen - Direct

1 A. Yes.

2 Q. What is written next to that?

3 A. Sociedade Saboeira de Nacala Lda.

4 Q. What is the property listed?

5 A. 591 Prospect Hill Road, town of Pine Plains.

6 Q. Now, would you please read the first sentence of the second  
7 paragraph?

8 A. "Please make three copies and have your client sign all  
9 three copies and return them to this office with the requisite  
10 down payment of \$375,000 in bank or certified funds payable to  
11 Shawn B. Pratt, as attorney."

12 Q. And in the documents you reviewed on Thursday, did you see  
13 the name Shawn Pratt on any of those documents?

14 A. I did.

15 Q. Where did you see that?

16 A. It was listed on the withdrawal slip for the \$375,000 from  
17 the account of Thomas C. McGregor.

18 MS. LARYEA: Mr. Beer, could you publish side by side  
19 Government Exhibit 105B. Can you please enlarge the text of  
20 Government Exhibit 105B.

21 Q. Agent Killeen, is this the withdrawal slip you just  
22 referenced?

23 A. It is.

24 MS. LARYEA: Mr. Beer, can you please side by side  
25 also enlarge the second paragraph of this letter and the

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Killeen - Direct

1 withdrawal slip next to it.

2 Q. And Agent Killeen, do you see 375 mentioned in both of  
3 those enlargements?

4 A. I do.

5 MS. LARYEA: Mr. Beer, will you please go to page 5 of  
6 Government Exhibit 507. You can remove those side by side,  
7 Mr. Beer.

8 Q. Now, you just testified that the letter mentioned an  
9 attached contract of sale?

10 A. It did.

11 Q. What is this document?

12 A. This is the contract of sale --

13 Q. And --

14 A. -- attached to that letter.

15 Q. And the letter we just looked at mentioned the property  
16 address 591 Prospect Hill Road. Is that correct?

17 A. It did.

18 Q. Do you see that property address --

19 A. I do not.

20 Q. -- anywhere in this contract of sale?

21 A. I do not.

22 MS. LARYEA: Mr. Beer, will you please enlarge it.

23 Q. What is the property address that you see on this contract  
24 of sale?

25 A. 771 Duell Road, town of Stanford and town of Washington,

H51Wthi2

Killeen - Direct

1 Dutchess County, New York.

2 Q. And this is the same contract of sale that was attached to  
3 the letter we just reviewed, is that correct?

4 A. That is correct.

5 Q. What is the seller listed on this contract of sale?

6 A. The seller is listed on this contract of sale as Antonio  
7 Gebauer for the listed trust of Reinhardt.

8 Q. And the buyer?

9 A. The buyer is listed as Sociedade Saboeira de Nacala Lda.

10 Q. What is the address of the buyer listed on this contract?

11 A. 340 East 64th Street, No. 14H, New York, New York.

12 Q. And in the records reviewed last Thursday, did you see this  
13 address listed anywhere?

14 A. I did.

15 Q. Where did you see that address listed?

16 A. Multiple locations, but the residence of the defendant.

17 MS. LARYEA: Mr. Beer, can we please go to page 12 of  
18 this document. Can you please enlarge the section with the  
19 signature lines.

20 Q. Agent Killeen, who is listed as the purchaser of, on this  
21 contract for 771 Duell Road?

22 A. The defendant, Mahmoud Thiam.

23 Q. Who is listed as the attorney for the seller?

24 A. For the seller? Shawn B. Pratt.

25 Q. And who is listed as the attorney for the buyer?



H51Wthi2

Killeen - Direct

1 A. Thomas C. McGregor.

2 MS. LARYEA: Mr. Beer, can you please publish  
3 Government Exhibit 543.

4 Q. Agent Killeen, have you seen this document before?

5 A. I have.

6 Q. What is it?

7 A. This is an email from Kumar Sanath to Aquil Rajahussen.

8 Q. What is the subject of this email?

9 A. Subject reads, "Mahmoud Thiam account new and in Tally in  
10 USD & Mtn statement."

11 Q. What is the date of the email?

12 A. The date of this email is May 25 of 2012.

13 Q. Can you please read that first line under "Dear sir"?

14 A. "Find attached Mahmoud Thiam account.

15 Q. Were there any attachments to this document?

16 A. Yes, there were.

17 MS. LARYEA: Mr. Beer, will you please go to page 5 of  
18 this document.

19 Q. Special Agent Killeen, have you seen this document before?

20 A. I have.

21 Q. What is it?

22 A. This is a ledger with, under the heading of G.S. Holdings  
23 Lda. at the top.

24 MS. LARYEA: Mr. Beer, can you please enlarge from the  
25 top through the second entry on the ledger.

H51Wthi2

Killeen - Direct

1 Q. You mentioned this is a ledger held by G.S. Holdings, is  
2 that correct?

3 A. That's correct.

4 Q. Who is the ledger for?

5 A. The defendant, Mahmoud Thiam.

6 Q. Can you please read the first entry in this ledger?

7 A. The first entry is dated at November 1 of 2010 to SSNL, a  
8 debit of \$375,000. It is listed as being the amount paid to  
9 Thomas C. McGregor PS -- PC Esq. IOLA for U.S. dollars 375,000  
10 at 36.10 ABC transfer.

11 Q. During your testimony last Thursday, did you see any  
12 documents that referenced this payment?

13 A. Yes, I did.

14 Q. What document was that?

15 A. This SSNL, that is the document that showed the SWIFT  
16 transfer of the funds of \$375,000 from SSNL to Thomas C.  
17 McGuire.

18 Q. Now moving on to the second entry in this ledger, can you  
19 read what that says?

20 A. Yes. It is dated November 15 of 2010. It's for a credit  
21 of \$375,000. It's by Pacific Inter-Link SDN BHD with the  
22 additional text "being the amount transferred to PIL account  
23 U.S. dollars 375,000."

24 Q. And in the documents we reviewed last Thursday, did you see  
25 documents that referenced Pacific Inter-Link?

H51Wthi2

Killeen - Direct

1 A. I did.

2 Q. What document was that?

3 A. That document was the location of the, of the bank account,  
4 the bank account listed that was request -- the request was  
5 made of the defendant to send \$375,000 to that account.

6 Q. And in the bank records we reviewed last Thursday, did you  
7 see anything regarding whether the defendant sent \$375,000 to  
8 Pacific Inter-Link?

9 A. Yes. The defendant forwarded a confirmation of the payment  
10 via email.

11 Q. Agent Killeen, last Thursday you testified that you had the  
12 opportunity to examine all of the HSBC records in this case, is  
13 that correct?

14 A. That's correct.

15 Q. Did you also examine all of the Wachovia Bank account  
16 records for Mr. McGregor?

17 A. I did.

18 Q. And approximately how many pages were all of those bank  
19 records?

20 A. Thousands.

21 Q. After you examined them, did you also examine some summary  
22 charts depicting the relevant transactions in the HSBC and  
23 Wachovia bank records?

24 A. Yes, I did.

25 Q. Do the summary charts fairly and accurately duplicate and

H51Wthi2

Killeen - Direct

1 summarize the information on those bank records?

2 A. They do.

3 MS. LARYEA: At this time, your Honor, the government  
4 offers Government Exhibit 1005 and Government Exhibit 1006 to  
5 the record.

6 THE COURT: Received.

7 (Government Exhibits 1005 and 1006 received in  
8 evidence)

9 MS. LARYEA: Mr. Beer, can you please publish  
10 Government Exhibit 1005.

11 Q. Special Agent Killeen, what is this document?

12 A. This document is a -- shows the transactions, multiple  
13 transactions, on the left side and the right side, and the  
14 connection between the two in the center, via the ledger we  
15 just reviewed.

16 Q. Agent Killeen, could you explain these transactions  
17 starting from the top left.

18 A. I will. The top you see G.S. Holdings Lda. SSN Lda. --  
19 that's Sociedade Saboeira de Nacala -- on November 1, 2010, a  
20 \$375,000 wire, which we saw the SWIFT report for, was sent to  
21 Thomas C. McGregor's account at Wachovia Bank. It was  
22 received. On the 5th of November 2010, so approximately four  
23 days later, a withdrawal of \$375,000 was made. We saw the  
24 withdrawal slip a couple of minutes ago and was used for the  
25 purchase of that estate.

H51Wthi2

Killeen - Direct

1           Moving to the right now, at the top right you see the  
2 name of the defendant and the HSBC account in Hong Kong,  
3 controlled by the defendant. On the 12th of November 2010, a  
4 \$375,000 wire was sent from that HSBC account in Hong Kong to  
5 the account of Pacific Inter-Link, which was located in Kuala  
6 Lumpur, Malaysia.

7           In the center you'll see, at the top of the ledger we just  
8 saw, that showed the two transactions related to the \$375,000.  
9 The second transaction right there, dated November 15, 2010, by  
10 Pacific Inter-Link, shows the amount \$375,000 essentially  
11 netting out the payment above it by SSNL, or Sociedade de  
12 Nacala.

13 Q. Thank you, Agent.

14           Last Thursday, during your testimony, we left off  
15 reviewing the videotape of the defendant's interview with the  
16 FBI after his arrest. Is that correct?

17 A. That is correct.

18 Q. We reviewed a portion of that videotape about a loan from  
19 Sam Pa. Is that correct?

20 A. That is correct.

21           MS. LARYEA: Mr. Beer, can you please publish clip 11  
22 from Government Exhibit 801A.

23           (Video played)

24 Q. Special Agent Killeen, based on the video we just watched,  
25 when did the defendant say he first asked Sam Pa for a loan?

H51Wthi2

Killeen - Direct

1 A. He said it was in Hong Kong, well after the signing of the  
2 agreement in 2010.

3 Q. Based on the bank records we reviewed last Thursday, when  
4 was the first payment from Sam Pa to the defendant?

5 A. It was in September of 2009.

6 Q. And how did this, when did this payment occur in comparison  
7 with the CIF --

8 A. This payment was from Sam Pa to the defendant, was made  
9 approximately two weeks before the signing of the shareholder  
10 agreement.

11 MS. LARYEA: Mr. Beer, will you please publish  
12 Government Exhibit 1006.

13 Q. Agent Killeen, what is this exhibit?

14 A. This exhibit shows, it's a pie chart, obviously. It shows  
15 the percentage of deposits in the account from either the  
16 payments received that we reviewed last week, the four  
17 payments, and any other deposits in the account and showing the  
18 percentage of the total amount of deposits into the Hong Kong  
19 account at HSBC controlled by the defendant. This chart right  
20 here shows, as of March 26 of 2010, of all the deposits into  
21 that account, 99.9 percent were represented by those four  
22 payments we reviewed last week from the executive of CIF.

23 Q. Based on the documents we reviewed last week, what is the  
24 significance of March 26, 2010?

25 A. This was the approximate date where the defendant was

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Killeen - Direct

1 communicating with Remee Aring, the Chase investigator, in  
2 fact, approximate date that he sent the answers regarding the  
3 source of funds in this account.

4 MS. LARYEA: Mr. Beer, will you please publish  
5 Government Exhibit 535.

6 Q. Agent Killeen, what is this exhibit?

7 A. This is an email, with attachments, from the defendant to  
8 Remee Aring at ChaseBank.

9 Q. Is this the email you just referenced?

10 A. It is.

11 MS. LARYEA: Mr. Beer, will you please go to page 3 of  
12 this exhibit.

13 Q. In this email, where did the defendant say the money from  
14 his Hong Kong HSBC account came from?

15 A. You can see reference in the last line: "The funds in that  
16 account are derived from business transactions done over the  
17 years with Mr. Al-Sadi."

18 MS. LARYEA: Mr. Beer, will you please return to  
19 Government Exhibit 1006.

20 Q. On that date, March 26, 2010, in your review of the bank  
21 records, how much of the \$5,475,000 that did not come from CIF  
22 came from Mr. Al-Sadi?

23 A. From the documents I've reviewed, we received and I  
24 reviewed, none of that amount originated with Mr. Al-Sadi.

25 MS. LARYEA: Mr. Beer, will you please go to page 2 of

H51Wthi2

Killeen - Direct

1 this document.

2 Q. What does this pie chart represent, Agent Killeen?

3 A. This shows the exact percentages of deposits in the  
4 defendant's account at HSBC in Hong Kong. As of this date,  
5 July 20 of 2010, 99.3 percent of all the deposits originated  
6 from those four payments we reviewed last week.

7 MS. LARYEA: Mr. Beer, will you please go to the  
8 following page, page 3.

9 Q. What does this pie chart represent, Special Agent Killeen?

10 A. Same, same basic chart. The date on this one is November  
11 20 of 2010. It shows that the four payments received from the  
12 CIF executives still represent 99.3 percent of all deposits  
13 into that account.

14 Q. What is the significance of this date, November 20, 2010?

15 A. This was the approximate date the property in Dutchess  
16 County was purchased, 771 Duell Road.

17 Q. Agent Killeen, in connection with that purchase, we  
18 discussed the 375 that went from the defendant's HSBC account  
19 to Pacific Inter-Link, is that correct?

20 A. That's correct.

21 Q. Looking at this pie chart, was there \$375,000 that came  
22 from deposits other than CIF?

23 A. No. There were insufficient -- sufficient deposits from  
24 other sources to cover that amount.

25 MS. LARYEA: Mr. Beer, can you please go to the



H51Wthi2

Killeen - Direct

1 following page.

2 Q. What does this represent, Agent Killeen?

3 A. Pie chart, same as the previous charts, showing the  
4 percentage of deposits into the account as of a certain date  
5 coming from the four payments from the CIF executives. This  
6 date is November 29 of 2010, and at this point 99.4 percent of  
7 all deposits in the account came from the payments from the CIF  
8 executives.

9 Q. What is the significance of this date, November 29, 2010?

10 A. This is the approximate date where the defendant received  
11 his last payment of \$500,000 from CIF executives.

12 Q. Agent Killeen, during the defendant's interview with the  
13 FBI after the arrest, did he explain when he got the loan?

14 A. He did.

15 MS. LARYEA: Mr. Beer, could you please play clip 17  
16 from Government Exhibit 801A.

17 (Video played)

18 Q. Agent Killeen, during that interview, did the defendant  
19 also discuss whether he got loans from anyone else while he was  
20 minister of mines?

21 A. No, he didn't.

22 MS. LARYEA: Mr. Beer, will you please play clip 16  
23 from Government Exhibit 801A.

24 (Video played)

25 Q. Agent Killeen, after the defendant was arrested, did the

H51Wthi2

Killeen - Direct

1 FBI conduct a search of his apartment?

2 A. We did.

3 Q. As part of this search, did you seize any telephones?

4 A. We did.

5 Q. Did you review the content of the phone?

6 A. We did.

7 Q. Did you review any chat messages that were on the phone?

8 A. Yes, we did.

9 MS. LARYEA: Mr. Beer, will you please publish  
10 Government Exhibit 601A. Will you please enlarge the text.

11 Q. Agent Killeen, have you reviewed this document?

12 A. I have.

13 Q. What is it?

14 A. This is a chat between a number, a WhatsApp account  
15 utilized by the defendant, and an account under the name of, I  
16 apologize if I pronounce this incorrectly Nyonga Fongang,  
17 separate number.

18 Q. And is this chat --

19 A. Yes.

20 Q. What is the date of this chat?

21 A. This is in November, November 8 of 2016.

22 Q. And which message is from the defendant and which one is  
23 from the other individual?

24 A. The messages that are next to the blue icon, you can see on  
25 the left, are from the defendant, and the messages from the

H51Wthi2

Killeen - Direct

1 other party are next to the green icon, which you can see on  
2 the right.

3 Q. Agent Killeen, will you read this chat indicating who is  
4 speaking?

5 A. I will. The defendant wrote, "How are you?" The other  
6 individual said: I'm good. Watching the U.S. from cold  
7 Amsterdam. And you? Just been reading a book 'looting on  
8 Africa,' and you are being quoted all over it." The defendant  
9 responded with a smiley face combination, then: "Yes, tricky  
10 guy." It continued: "He collected all the interviews from  
11 2009 and presented them as if I cooperated on his book."  
12 Continuing with, by the defendant: Am in Dubai"; finally,  
13 "Have you spoken to our friend? The other party responded,  
14 "Hahahahaha, at least Sam Pa is locked up, so you are fine."  
15 The defendant responded: "He predicted I would be locked up.  
16 Life has its twists."

17 THE COURT: Excuse me, ladies and gentlemen. I want  
18 to give you an instruction with respect to one comment made.  
19 First of all, it's the defendant's comments in this email that  
20 are being received as evidence here. The other comments from  
21 the other person are simply being received to give context to  
22 the defendant's remarks.

23 Let me direct your attention to the last statement  
24 made by this other person. It refers to Sam Pa being locked  
25 up. That statement is not being offered for the truth. It is

H51Wthi2

Killeen - Cross

1 not evidence as to whether Mr. Pa is locked up or not, and  
2 you're not to speculate at all with respect to whether he is  
3 locked up, where he's locked up, why he's locked up, or whether  
4 he isn't locked up. It's not being received for the truth.

5 Thank you.

6 MS. LARYEA: No further questions, your Honor.

7 CROSS-EXAMINATION

8 BY MR. GOLDSMITH:

9 Q. Special Agent Killeen, you testified at length on Thursday  
10 and a bit this morning about several charts, those being  
11 Exhibits 1001, 1002, 1003, 1005, and 1006. Did you create  
12 those charts?

13 A. I created with other individuals and then sum -- and then  
14 checked them and verified them.

15 Q. You also testified quite extensively about a number of  
16 emails and bank statements on Thursday and a bit this morning.  
17 How many pages of bank statements did you review related to  
18 Mr. Thiam?

19 A. I would say at least a couple hundred, probably over a  
20 thousand.

21 Q. How many bank pages of bank statements did you review  
22 regarding the matters that you were testifying about on  
23 Thursday and this morning?

24 A. How many pages specifically?

25 Q. No. In total.

H51Wthi2

Killeen - Cross

1 A. Significant amount. I don't have an exact number, counsel.

2 Q. Thousands, fair to say?

3 A. Thousands -- the total amount of bank statements, yes.

4 Q. And the emails that you reviewed prior to your testimony  
5 today, fair to say at least hundreds of emails?

6 A. I'd say I saw well over hundreds of emails, might be in the  
7 thousands as well.

8 Q. You also, as you testified briefly this morning, had a cell  
9 phone, was taken during the arrest and seizure from Mr. Thiam's  
10 apartment. Is that correct?

11 A. That is correct.

12 Q. Also had a computer that was taken at that time?

13 A. Yes.

14 Q. Now, there are, do you recall testifying about Exhibit 506?

15 A. Can I see 506 real quick?

16 Q. Sure.

17 MR. GOLDSMITH: In fact, Mr. Beer, can you publish  
18 506-T.

19 Q. Are you able to see it on the monitor?

20 A. Yes.

21 Q. Take a look at it quickly.

22 MR. GOLDSMITH: And if you could, Mr. Beer, if you  
23 could highlight the second half of the email, starting with  
24 "because." Just enlarge the second half.

25 Q. Now, if you could read what's included in the second large

H51Wthi2

Killeen - Cross

1 paragraph of 506-T?

2 A. OK. Would you like me to read the entire thing?

3 Q. Please.

4 A. "Another variable made this wait necessary, the documents  
5 presented were again listing the initially discussed sharing of  
6 85 percent for CIF and 15 percent for Guinea. It seemed to me  
7 that the commission eventually chose to offer 20 percent or 25  
8 percent. When I brought this up, I was told that considering  
9 they will deploy or raise 100 percent of the funding, this  
10 sharing out is imposed on them. I then suggested, as  
11 compensation, that ADC not own 100 percent of these local GDG  
12 subsidiaries but only up to 80 or 90 percent. Therefore it  
13 would allow the state to recover what was given apropos the  
14 holding company."

15 Q. Could you read the final sentence in that email?

16 A. "I left the board to assess the situation and notify us of  
17 their decision."

18 MR. GOLDSMITH: Could we also have Exhibit 305J,  
19 Mr. Beer. I'm sorry. Publish that.

20 Q. Do you recall testifying about this exhibit on Thursday?

21 A. I do.

22 Q. Could you read the notation -- I'm sorry. Let's back up a  
23 little bit.

24 This document represents one of the wire transfers that you  
25 testified about on Thursday?

H51Wthi2

Killeen - Redirect

1 A. Yes.

2 Q. And could you read the word on the far left at the bottom  
3 appearing in print?

4 A. Are you talking about the very last, under the print, right  
5 there under June 2?

6 Q. Yes.

7 A. OK. "Loan."

8 MR. GOLDSMITH: Could you also, Mr. Beer, pull up  
9 3050.

10 Q. And this document you also recall testifying about on  
11 Thursday?

12 A. Yes.

13 Q. And this also represents one of the payments that you  
14 testified about on Thursday?

15 A. Yes.

16 Q. And could you also read the word under the date that  
17 appears at the bottom on the left side?

18 A. "Loan."

19 MR. GOLDSMITH: No further questions.

20 THE COURT: Any redirect?

21 MS. LARYEA: Yes, your Honor.

22 Mr. Beer, will you please publish Government Exhibit  
23 305B can you please enlarge the top section.

24 REDIRECT EXAMINATION

25 MS. LARYEA:

H51Wthi2

Hayes - Direct

1 Q. Agent Killeen, this is the first transfer from Sam Pa of \$3  
2 million to the defendant, is that correct?

3 A. That is correct.

4 Q. Does it say loan on this document?

5 A. It does not.

6 MS. LARYEA: Mr. Beer, will you please publish  
7 Government Exhibit 305E. Sorry. Could you please publish  
8 Government Exhibit 305F. Please enlarge that top section.

9 Q. And this is a second transfer of \$3 million to the  
10 defendant from Wang Xiang-Fei, is that correct?

11 A. That's correct.

12 Q. Does it say loan on this document?

13 A. It does not.

14 MS. LARYEA: No further questions.

15 MR. GOLDSMITH: No questions, your Honor.

16 THE COURT: You may step down.

17 (Witness excused)

18 THE COURT: Next witness.

19 MR. KOBRE: The government calls Stacey Hayes.

20 STACEY HAYES,

21 called as a witness by the Government,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. KOBRE:

25 Q. Good morning, Ms. Hayes.



H51Wthi2

Hayes - Direct

1 A. Good morning.

2 Q. Where do you work?

3 A. HSBC bank.

4 Q. What's your current position with HSBC?

5 A. Branch service manager.

6 Q. Where are you based at?

7 A. 1002 Madison Avenue, New York, New York, 10075.

8 Q. Around when did you first start working at HSBC bank?

9 A. In 1994.

10 Q. What was your position when you first got hired?

11 A. I was a teller.

12 Q. Could you briefly describe your progression in your work at  
13 HSBC?

14 A. Yes. I started as a teller, then I was an assistant head  
15 teller, then I became the head teller. Then I was a consumer  
16 banker, then I was a senior consumer banker. Then I was a  
17 branch operations officer, and now I'm currently branch service  
18 manager.

19 Q. At which HSBC branch were you branch manager?

20 A. At 1002 Madison Avenue.

21 Q. OK. Is it OK if we call that the Madison Avenue branch?

22 A. Yes.

23 Q. Did there come a time that you left HSBC for a period of  
24 time?

25 A. Yes, there was.

H51Wthi2

Hayes - Direct

1 Q. And when did that happen?

2 A. That was in 2005.

3 Q. And why did you leave?

4 A. Because the branch I was working in was going to have  
5 Saturday and Sunday hours, and I couldn't work.

6 Q. And did you find other employment during that period?

7 A. I did.

8 Q. What was that?

9 A. I worked at National Bank of Pakistan and RH Realty LP.

10 Q. What kind of work did you do in connection with Bank of  
11 Pakistan?

12 A. I worked in the wire department area and the compliance  
13 department.

14 Q. Describe a little bit about your work in the compliance  
15 department at that bank.

16 A. I would review transactions for unusual and suspicious  
17 activity.

18 Q. At some point did you return back to HSBC?

19 A. Yes, I did.

20 Q. And around what year was that?

21 A. That was in 2009.

22 Q. Did you return to the same branch, Madison Avenue branch?

23 A. Well, when I left, I was at a different location. When I  
24 came back in 2009 is when I started at 1002 Madison Avenue.

25 Q. And when you returned back in 2009, what was your position?

H51Wthi2

Hayes - Direct

1 A. At that time, it was branch operations officer.

2 Q. And could you explain to us what some of your duties and  
3 responsibilities were as branch operations officer at the  
4 Madison Avenue branch?

5 A. It was being in control of managing operations of the  
6 branch, supervising tellers, reviewing new accounts for  
7 accuracy and approving them.

8 Q. As part of your work with HSBC, have you become familiar  
9 with the term "know your customer," or sometimes KYC for short?

10 A. Yes, I did.

11 Q. Can you describe what that is, generally?

12 A. It's generally making sure that the bank understands and  
13 know who the customer is and how they will be using the bank.

14 Q. And what's the purpose of that?

15 A. So we can understand what type of transactions the customer  
16 will be using.

17 Q. Are there particular risks the bank is concerned about?

18 A. Yeah, we're looking for unusual activity, anything that may  
19 be linked to money laundering.

20 Q. Does HSBC have a particular know-your-customer program?

21 A. Yes.

22 Q. And during the course of your employment, have you received  
23 training in HSBC's procedures for that?

24 A. Yes.

25 Q. And did your responsibilities as a branch operations

H51Wthi2

Hayes - Direct

1 officer include duties with respect to the know-your-customer  
2 program?

3 A. Yes.

4 Q. In your work as branch operations officer in 2009, did you  
5 become familiar with the term "special category of client"?

6 A. Yes.

7 Q. What is that?

8 A. These are clients who are linked to governments throughout  
9 the world and they have political connections.

10 Q. Does the bank have any special know-your-customer  
11 procedures when a prospective customer is identified as a  
12 special category of client?

13 A. Yes. These clients would need prior approval before  
14 opening the account through compliance, and their account is  
15 handled with more enhanced due diligence.

16 Q. And through your work and through the training that you  
17 received, could you tell us why that is?

18 A. Because they're looking to make sure that the bank is being  
19 used properly and that there's no risk involved with the  
20 customers that we are on-boarding.

21 Q. What sort of risks is the bank concerned about with respect  
22 to special category of clients?

23 A. They're looking at possible money laundering, make sure  
24 they're not linked in any way.

25 Q. Now, before I ask you a bit about HS, more about HSBC's

H51Wthi2

Hayes - Direct

1 know-your-customer program, could you briefly describe the  
2 process when a customer opens a new bank account at a branch  
3 such as the one that you worked at in 2009?

4 A. Yes, the person will sit down with a banker and the banker  
5 will go through multiple questions regarding their use of the  
6 account, and in my role, once the account is opened, the  
7 documents that were received by the banker is given to me and I  
8 would review that.

9 Q. I think you testified about this earlier. Am I correct  
10 that as the branch operations officer at your branch, you are  
11 in charge of the know-your-customer program at the branch?

12 A. Yes, I'm responsible for reviewing all new accounts that  
13 are opened.

14 (Continued on next page)

15  
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25

H511thi3

Hayes - Direct

1 BY MR. KOBRE:

2 Q. And describe what exactly that entails.

3 A. What I do is I look at the identification that's provided.  
4 If there's any proof of address provided, I verify that on the  
5 system that was inputted, I look at their company name, I look  
6 at their company's address, I look at what type of work that  
7 they do.

8 Q. You mentioned you look at the company name and address.  
9 Can you explain that a little bit more. What's the purpose of  
10 that?

11 A. Because by the company's name, we should be able to know  
12 what type of company it is and what type of position that  
13 person holds in that company and what type of work they do in  
14 that company.

15 Q. Okay. And beyond looking at the name of the company, is  
16 there any other additional steps that you take to verify the  
17 information?

18 A. Can you rephrase that.

19 Q. Sure. Once you look, once you see the name of the company  
20 on the documents that are provided to you, do you do any  
21 further research relating to the particular name of the company  
22 or the employer?

23 A. Only if the name of the company -- if I can't tell what  
24 type of business it is.

25 Q. What other sorts of things do you look at when you review

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Hayes - Direct

1 the account at the time of opening?

2 A. I look at a screen where we see what type of activity will  
3 be coming in and out of the account.

4 Q. And what's the purpose of that?

5 A. Just to see where the money is coming and going.

6 Q. What about the source of the funds? Is that something you  
7 look at as well?

8 A. Yes, that's the question that the banker would ask and will  
9 provide that information.

10 Q. And when you say that the banker will ask, are you  
11 referring to the person -- you're not referring to yourself.

12 A. No.

13 Q. Who are you referring to?

14 A. The person who opened the account.

15 Q. The bank employee who opens the account?

16 A. Yes.

17 Q. Can you give some examples that have come up in your  
18 experience in terms of verifying information that's provided by  
19 customers as part of the Know Your Customer program.

20 MR. DELAKAS: Objection, your Honor.

21 THE COURT: Overruled. You may answer.

22 A. Can you repeat the question.

23 Q. Sure. Can you just give us an example of the sorts of  
24 things that have arisen, in your experience, in verifying  
25 information that's provided by customers.

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1 A. Well, there was a -- an account where I didn't review the  
2 account, it was from another branch, but the individual was a  
3 owner of a frankfurt -- frank stand in Central Park, and he  
4 would come in and make multiple cash deposits in the amounts of  
5 9,000, 9500 --

6 MR. DELAKAS: Objection, your Honor.

7 THE COURT: Yes. Ladies and gentlemen, I'm going to  
8 strike this question and answer and you shall disregard it.

9 Q. Is the review process that you just described sometimes  
10 referred to as due diligence?

11 A. Yes.

12 Q. And is this process, your review process, conducted for all  
13 new accounts?

14 A. Yes.

15 Q. Turning your attention to June 2010. As part of your  
16 responsibilities as the branch operations officer at the  
17 Madison Avenue branch, did you learn that an individual named  
18 Mahmoud Thiam had visited the branch to open a new account?

19 A. Yes.

20 Q. And how did you learn that?

21 A. Because I was given the new account documents.

22 Q. And who gave you those documents?

23 A. Ajay Damle.

24 Q. Who is Ajay Damle?

25 A. He was a former employee of HSBC.



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1 Q. Was he a banker at the bank?

2 A. Yes, he was.

3 MR. KOBRE: And at this point Mr. DiMase is  
4 approaching the witness with what are in evidence as Government  
5 Exhibits 102-A through 102-H.

6 Q. Ms. Hayes, if we could just start -- if you could take a  
7 look at 102-A, B, C, and D briefly, and just look up when  
8 you're done doing that.

9 Do you recognize those documents?

10 A. Yes.

11 Q. And if you can just, going in order, just describe what  
12 they each are.

13 A. 102-A is the master deposit agreement, which is our  
14 signature card.

15 102-B is a copy of a US passport and a New York State  
16 driver's license.

17 And 102-C is a screenshot of our CIF screens on the  
18 employment.

19 Q. If I can just interject there, what does CIF stand for?

20 A. Customer Information File.

21 Q. Thank you. And just referring now to Government Exhibit D.  
22 Sorry. 102-D.

23 A. B?

24 Q. D. I think that was just the one that you were going to --

25 A. Okay.

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Hayes - Direct

1 Q. What is that?

2 A. And 102-D is the workshop -- workshop -- the worksheet that  
3 is printed out once the account is opened.

4 MR. KOBRE: And Mr. Beer, if we can publish for the  
5 jury Government Exhibit 102-A.

6 And Ms. Hayes, you can follow along on the screen.

7 If we can just enlarge the upper portion.

8 Q. And what is this form?

9 A. This is the master deposit agreement.

10 Q. And for who?

11 A. For Mahmoud Thiam.

12 Q. And what's the date that's indicated here?

13 A. June 7, 2010.

14 Q. What does that date signify?

15 A. The date the account was opened.

16 MR. KOBRE: Okay. If we can go now, Mr. Beer, and  
17 publish Government Exhibit 102-B.

18 And if we can go to 102-B, the second page. And  
19 enlarge the portion with the writing.

20 Q. What are we looking at here?

21 A. A copy of a New York State driver's license.

22 Q. For who?

23 A. Mahmoud Thiam.

24 Q. And there is some writing on the left-hand side of that  
25 page. Do you recognize the handwriting?

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1 A. Yes.

2 Q. Whose handwriting is it?

3 A. Ajay Damle.

4 Q. And is there a date indicated there?

5 A. Yes. June 7, 2010.

6 Q. Thank you.

7 MR. KOBRE: Mr. Beer, if we can publish Government  
8 Exhibit 102-C.

9 And enlarge the upper half of the page.

10 Q. You mentioned earlier that this is a printout from the  
11 customer information file. Can you explain what we're looking  
12 at here.

13 A. This is the screen where it would have the customer's  
14 employment information.

15 Q. And where does the information that's here on this  
16 screenshot here, where does that come from?

17 A. Comes from the banker who opened the account.

18 Q. And where does that person get the information from?

19 A. Speaking with the client.

20 Q. And you mentioned earlier that your role in the KYC process  
21 involves reviewing certain documents that were provided to you.

22 A. Yes.

23 Q. Which documents are the ones that are provided to you for  
24 your review?

25 A. It's the customer identification, it's the worksheet, and

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Hayes - Direct

1 if the customer provided proof of address.

2 Q. Okay. So is Government Exhibit 102-A included in the  
3 documents that you received?

4 A. Yes.

5 Q. And what about 102-B?

6 A. Yes.

7 Q. And how about 102-C, which is up on the screen right now?

8 A. This information I would get when I'd go into our computer  
9 system to review the account.

10 Q. So it's not actually provided to you by the banker, but you  
11 would pull it up on your own in order to conduct your review.

12 A. Yes.

13 Q. Okay. And looking at 102-C, what did Mr. Thiam tell  
14 Mr. Damle was his employer?

15 A. AMER.

16 Q. And what did Mr. Thiam tell the bank was his occupation  
17 with AMER?

18 A. He was the chairman.

19 THE COURT: Is that A-M-E-R?

20 THE WITNESS: Yes.

21 Q. Is there a field here that describes additional info?

22 A. Yes.

23 Q. And what does it say?

24 A. Mining and natural resources consulting.

25 Q. And that information comes from where?

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Hayes - Direct

1 A. This is the information the banker would have input into  
2 the system.

3 Q. In your review of 102-C -- are there several pages to  
4 102-C?

5 A. Yes.

6 Q. In your review of 102-C, did you see anywhere any  
7 indication that Mr. Thiam was the minister of mines of a West  
8 African country?

9 A. No.

10 Q. Now was there any indication anywhere on 102-C that  
11 Mr. Thiam was a public official?

12 A. No.

13 Q. One more item on 102-C.

14 What did Mr. Thiam indicate was the employer's  
15 address?

16 A. 340 East 64<sup>th</sup> Street, Apartment 14H, New York, New York  
17 10065.

18 Q. Did you see that address anywhere else on the documents  
19 that you reviewed as part of your KYC process?

20 A. Yes.

21 Q. Where did you see it?

22 A. On the driver's license.

23 Q. Did you later learn that the individual, Mahmoud Thiam,  
24 whose documents you had reviewed was at that time the minister  
25 of mines for the Republic of Guinea?

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Hayes - Direct

1 A. Yes.

2 Q. Can you describe how you learned that.

3 A. I learned that by -- I saw him on TV in our branch lobby.

4 Q. Explain how that came about.

5 A. HSBC has a lobby where customers wait until they're being  
6 seen by a banker, and we have a TV there that we keep for  
7 customers to be able to look at the stock market. And in doing  
8 so, when I went out into the lobby area, I saw the name Mahmoud  
9 Thiam on TV and under his name it said Minister of Mines of  
10 Guinea.

11 Q. When did you see him on TV in the nature of what you're  
12 talking about now?

13 A. I believe it was a day or two later.

14 Q. It just so happened that you saw it on TV.

15 A. Yes.

16 MR. KOBRE: My colleague Mr. DiMase is approaching the  
17 witness with what's marked Government Exhibit 1101.

18 Q. Please take a look at that. Do you recognize that?

19 A. Yes.

20 Q. And what is it?

21 A. It's a screenshot of a interview on TV.

22 Q. And does Government Exhibit 1101 appear to you to be  
23 similar to what you saw on TV a day or two after Mr. Thiam came  
24 in to open the account at HSBC at Madison Avenue?

25 A. Yes.

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1 MR. KOBRE: Your Honor, the government offers  
2 Government Exhibit 1101.

3 THE COURT: Received.

4 (Government's Exhibit 1101 received in evidence)

5 MR. KOBRE: Mr. Beer, if we can publish Government  
6 Exhibit 1101.

7 BY MR. KOBRE:

8 Q. Now when you saw this on TV at your branch, did you  
9 actually recognize the defendant's face?

10 A. It was the name.

11 Q. So had you actually seen the defendant at the bank in  
12 person?

13 A. No.

14 Q. Did you recognize it from any of the identifications that  
15 you had reviewed?

16 A. Yes.

17 Q. Now after you learned from seeing this on TV that Mr. Thiam  
18 was the minister of mines, did you notify any other division of  
19 the bank?

20 A. Yes.

21 Q. What was that?

22 A. I first told Ajay that we needed to escalate this because  
23 of the title, and then I reached out to my operations manager  
24 and then to the compliance department.

25 Q. If you could take a look at Government Exhibit 102-F.

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Hayes - Direct

1 A. Yes.

2 Q. If you can describe generally what is 102-F.

3 A. These are emails that were sent by myself to our -- the  
4 operations manager and compliance.

5 MR. KOBRE: And Mr. Beer, if we can publish Government  
6 Exhibit 102-F, just the first page.

7 And if we can highlight starting from the email that  
8 starts Stacey A. Hayes or just, you know, underneath there.

9 Q. This is an email from you to who?

10 A. Jon Fagin.

11 Q. And who is Jon Fagin?

12 A. He's the operations manager.

13 Q. Okay. And if you can just read the first few lines for us.

14 A. "Hi, Jon, An account was opened for Mahmoud Thiam, Account  
15 No. 6287487333. Mahmoud Thiam is HSBC Hong Kong group premier  
16 customer. He provided the following information at account  
17 opening."

18 Q. Okay. I'll just stop you right there. Then you go on to  
19 recite some information that Mr. Thiam had provided, correct?

20 A. Yes.

21 Q. That information that's listed there, where did that come  
22 from?

23 A. That was the information that was input into the system at  
24 the time the account was opened.

25 Q. Was also some of that information provided to you verbally



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Hayes - Direct

1 by Mr. Damle, or was it all from what was input?

2 A. Some of it was verbal.

3 Q. Okay. As a result of your conversations with the bank's  
4 compliance department, did you take any further steps with  
5 respect to the account for Mr. Thiam?

6 A. Yes. We needed to get additional information.

7 Q. And so what steps did you take to get that additional  
8 information?

9 A. I provided some questions for Ajay to follow up.

10 Q. If you could take a look at what's marked Government  
11 Exhibit 102-E, Ms. Hayes. Just flip through that and I'll have  
12 additional questions.

13 What are 102-E?

14 A. These are handwritten questions that we needed answers to.

15 Q. Okay. We're not going to go through this in any detail.

16 MR. KOBRE: But Mr. Beer, if you could publish  
17 Government Exhibit 102-E, page 1.

18 Q. Just briefly describe, what are we looking at on this page  
19 1 here?

20 A. These are my handwritten questions that I needed answers  
21 to.

22 Q. And you had gotten those questions from compliance?

23 A. Yes.

24 Q. If we can go to page 2.

25 It appears here, Ms. Hayes, that there are two sets of

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Hayes - Direct

1 handwriting. Can you describe what we're looking at.

2 A. Yes. The larger handwriting is my handwriting, and the  
3 smaller one is Ajay Damle.

4 Q. And without reading what's actually here, what did you  
5 write down here?

6 A. Questions that needed to be answered.

7 Q. And what did Mr. Damle write?

8 A. He provided the answers.

9 Q. Okay. And if we could look at page 3 of Government  
10 Exhibit 102-E.

11 What is this?

12 A. These are the same questions with answers in my  
13 handwriting.

14 Q. Okay. And page 4?

15 A. My handwriting with questions and the answers.

16 Q. Now going back to page 2, you mentioned that Mr. Damle  
17 provided you with answers?

18 A. Yes.

19 Q. Do you know whether Mr. Damle in fact met with Mr. Thiam  
20 again, as was required?

21 A. I'm not sure if these answers were provided in person or by  
22 telephone or by email.

23 MR. KOBRE: Okay. If we can go to Government  
24 Exhibit 102-F, page 6.

25 Mr. Beer, if we can just go one page back. And if we

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Hayes - Direct

1 can just enlarge the lower email.

2 Q. What are we looking at here?

3 Is it easier for you to look on the paper?

4 A. No, this is okay.

5 Q. Okay.

6 A. This is an email that I sent to Mary Visiko, who is in the  
7 compliance department.

8 Q. And what's the date of the email?

9 A. July 20, 2010.

10 Q. If you can just read the first line of email.

11 A. "Hi, Mary. Mahmoud Thiam came into the branch yesterday  
12 and provided the following details."

13 Q. So based on this document, did Mr. Thiam come into the  
14 branch for a follow-up interview?

15 A. Yes.

16 Q. And what date did Mr. Thiam come into the branch?

17 A. July 19<sup>th</sup>.

18 Q. Going back to Government Exhibit 102-E, page 2, are the  
19 answers here those that you learned Mr. Thiam provided to  
20 Mr. Damle on July 19, 2010?

21 A. Yes.

22 MR. KOBRE: Okay. And if we can just, Mr. Beer, go  
23 back to the email we were just looking at, which is 102-F,  
24 page 5.

25 Q. Could you describe what's contained in this email.

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Hayes - Direct

1 A. Answers to the follow-up questions.

2 Q. Okay. And you wrote this email.

3 A. Yes.

4 Q. And where did you send this email to?

5 A. To our compliance department, to Mary.

6 Q. As a result of your sending this email and the other steps  
7 you took, what happened --

8 A. The bank --

9 Q. -- to Mr. Thiam's account?

10 A. The bank decided to close the account.

11 Q. Before that, were you required to fill out any additional  
12 forms?

13 A. Yes.

14 Q. And describe what that was.

15 A. It's the SCC form.

16 Q. What does SCC stand for?

17 A. Special Category of Clients.

18 Q. Why were you required to fill out the SCC form based on  
19 this information?

20 A. Because he was an SCC, and the compliance department  
21 requires that form for their review.

22 Q. And why was he an SCC?

23 A. Because of his title in Guinea.

24 MR. KOBRE: Mr. Beer, if we can publish Government  
25 Exhibit 102-G.

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Hayes - Direct

1 Q. What are we looking at here?

2 A. The SCC form.

3 Q. If you could just read the heading of that document.

4 A. Special Category of Client, SCC, Public Officials,  
5 Connected Persons, Individuals That May Pose Reputational Risk.

6 Q. And who completed this form?

7 A. I did.

8 Q. And who is the SCC indicated on this form?

9 A. Mahmoud Thiam.

10 Q. Just briefly --

11 MR. KOBRE: Mr. Beer, if you can enlarge the lower  
12 half.

13 Q. On this form, who is the name of Mr. Thiam's employer?

14 A. Government of Guinea.

15 Q. What is his title and occupation?

16 A. Minister of mines in Guinea.

17 Q. And what were his source of income and wealth?

18 A. Accumulated savings from previous employment and sale of  
19 land in Africa.

20 MR. KOBRE: If we can go, Mr. Beer, to page 4 of this  
21 SCC form.

22 Q. What was the level of public position held?

23 A. SCC 01.

24 Q. And in looking at Item No. 4, Level of Public Position?

25 A. Minister of mines in Guinea.

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Hayes - Direct

1 Q. And finally, the last page, page 5. It asks whether there  
2 is a new relationship and, if bank relationship, provide name  
3 of bank. What is the answer there?

4 A. It's a new relationship, and the bank is HSBC Bank Hong  
5 Kong.

6 Q. Can you describe why you indicated that.

7 A. Because we needed to know if the customer had a existing  
8 relationship with our group cus -- our group banks, branches.

9 Q. And why did you indicate, when it says bank relationship,  
10 HSBC Bank Hong Kong?

11 A. Because that's his previous banking information.

12 Q. Okay. Who did you submit this form to?

13 A. To the compliance department.

14 Q. And what was the result of that?

15 A. The bank decided to close out the account.

16 MR. KOBRE: Mr. Beer, if you can publish, please,  
17 Government Exhibit 102-H. And if we can just enlarge the text.

18 Q. If you can just read this letter for us, Ms. Hayes,  
19 starting from "Dear Sir."

20 A. "Dear Sir, Based upon our rules for deposit accounts, we  
21 will be closing your checking account, Account No. 628746733  
22 and 628624816, effective August 26, 2010."

23 Q. That's fine, Ms. Hayes. Thank you very much.

24 MR. KOBRE: Just one moment, your Honor?

25 No further questions, your Honor.

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Hayes - Cross

1 THE COURT: Okay. Ladies and gentlemen, we'll take  
2 our midmorning recess. Let Ms. Rojas know when you're ready to  
3 resume.

4 (Jury not present)

5 THE COURT: Mr. Kobre, any issues to discuss?

6 MR. KOBRE: No, your Honor.

7 THE COURT: Mr. Goldsmith?

8 MR. GOLDSMITH: No, your Honor.

9 THE COURT: Counsel, there is one thing I noticed. I  
10 think some emails were displayed this morning that had certain  
11 material redacted; that is, portions of the page appeared  
12 blacked out on the screen. And I don't think we've said  
13 anything to the jury yet about redactions, and I think I should  
14 just tell them when they resume that the parties have  
15 cooperated together to redact information that is irrelevant to  
16 the issues at this trial and that they should not speculate as  
17 to what might be blackened out or not available for them to  
18 read. Any objection?

19 MR. KOBRE: No, your Honor.

20 MR. GOLDSMITH: No, your Honor.

21 THE COURT: Thank you.

22 THE DEPUTY CLERK: All rise.

23 (Recess)

24 (In open court; jury present)

25 THE COURT: Counsel.

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Hayes - Cross

1 CROSS EXAMINATION

2 BY MR. DELAKAS:

3 Q. Good morning, Ms. Hayes.

4 A. Good morning.

5 Q. I just have a few questions.

6 When Mr. Thiam came into the bank in June, that's the  
7 first time you saw him, is that correct?

8 A. I didn't see him in the bank.

9 Q. Just the name raised flags of who he was when you saw him  
10 on CNBC, is that correct?

11 A. Correct.

12 Q. Okay. Part of your job is to review information that Ajay  
13 Damle would give you, is that correct?

14 A. Correct.

15 Q. And what documents were given to you?

16 A. It was the driver's license, the passport, the master  
17 deposit agreement, and the new account worksheet.

18 Q. The driver's license that he gave you, that address is 340  
19 East 64<sup>th</sup> Street, is that correct? 102-B.

20 A. Yes.

21 Q. What other identification did he show you? Or not you  
22 specifically. What other identification did you have to  
23 review?

24 A. Passport.

25 Q. What country was that passport from?



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Hayes - Cross

1 A. United States.

2 Q. Okay. Was there an issue of having dual citizenship at  
3 all?

4 A. No.

5 Q. Can you open up an account at HSB with dual citizenship?

6 A. Yes.

7 Q. So that doesn't ring any bells.

8 MR. KOBRE: Objection.

9 THE COURT: Sustained. Form.

10 Q. World-Check, we were discussing about World-Check earlier,  
11 you previously testified. What other --

12 MR. KOBRE: Objection.

13 MR. DELAKAS: I'll withdraw that. I'm sorry.

14 Q. Did you do a World-Check search on Mr. Thiam?

15 A. I do not --

16 MR. KOBRE: Objection.

17 THE COURT: Overruled.

18 A. I do not have access to do World-Check searches.

19 Q. Okay. Who would have access to that?

20 A. The compliance department.

21 Q. And it would be, you would give information to the  
22 compliance department to do a World-Check.

23 A. They will review the information I give them, and then a  
24 part of their procedures, they would do World-Check.

25 Q. Okay. When he came in on or about June 7<sup>th</sup> -- is that

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Hayes - Cross

1 correct?

2 A. That's when the account was opened, June 7<sup>th</sup>.

3 Q. Okay. If you look at -- Government Exhibit 102-C is the  
4 customer information file?

5 A. Yes.

6 Q. Okay. On the upper right-hand corner, it says 6/8, is that  
7 correct?

8 A. Yes.

9 Q. June 8<sup>th</sup>? And I know now your files back then, having  
10 paper and writing down notes was common practice back then.

11 A. Yes.

12 Q. So as you learned information, you put it on these  
13 documents, is that correct?

14 A. Just to make notes, yes.

15 Q. Okay. If you look at the second page, it has the date of  
16 June 8<sup>th</sup> on top?

17 A. Yes.

18 Q. Okay. And what company is that?

19 Down on the bottom on the handwritten notes. I'm  
20 sorry.

21 A. It says American Middle Eastern Resources.

22 Q. Okay. Would that be the long name for AMER?

23 A. Yes.

24 Q. To your knowledge. Okay. When he came into the bank,  
25 Mr. Thiam, basically he gave information that he was, as you

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Hayes - Cross

1 testified earlier, he was opening up an account for AMER, is  
2 that correct?

3 A. No.

4 MR. KOBRE: Objection.

5 THE COURT: Sustained.

6 Q. When he came into the bank, what did he say he was opening  
7 the account for?

8 A. His personal account.

9 Q. Okay. Now when you Googled him later --

10 A. Yes.

11 MR. KOBRE: Objection.

12 THE COURT: Sustained. Form.

13 Q. Did you Google him?

14 A. Yes.

15 Q. Okay. Is this after you saw the CNBC?

16 A. Yes.

17 Q. And you found out he was the minister of mines.

18 A. Yes.

19 Q. Okay. All right. Now when you found out that he was  
20 minister of mines, you had to do the SCC search that you said  
21 before, you testified to, is that correct?

22 A. Can you rephrase that.

23 Q. Yes, sure. You did an SCC?

24 A. I completed a form.

25 Q. A form. Okay. Is that the same thing as a politically

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Hayes - Cross

1 exposed person, or PEP?

2 A. It's similar.

3 Q. Now when Mr. Thiam came into the bank, does he have to tell  
4 you he's a PEP?

5 A. Yes.

6 Q. If his business results from mining, is that correct?

7 A. Can you rephrase that.

8 Q. Sure. Let me go back some.

9 When you get information from a new client --  
10 basically, as you testified earlier, there was no relationship  
11 because he already had an account in Hong Kong.

12 A. Correct.

13 Q. So from that information alone and from the driver's  
14 license and the passport, he could have opened the account.

15 A. Yes.

16 Q. Then it came to your knowledge that he might have been a  
17 PEP, politically exposed person.

18 A. Yes.

19 Q. Okay. Now was he called back in to verify certain  
20 information?

21 A. Yes.

22 Q. Okay. If you go to 102-F, your emails. Let's go to the  
23 second page.

24 And this email basically is an email string, you  
25 answering to Nancy Polinski, Pokinski?

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Hayes - Cross

1 A. Pokriki. P-O-K-R-I-K-I.

2 Q. Pokriki. Is that correct?

3 A. Yes.

4 Q. Okay. So your response to her, there's a part here where  
5 it says that the company AMER has not opened yet.

6 A. Yes.

7 Q. Where did you get that information?

8 A. From Ajay.

9 Q. Do you know how he got that information?

10 A. I'm not a hundred percent sure how. I would think he spoke  
11 with the client.

12 Q. That would be Mr. Thiam.

13 A. Yes.

14 Q. Okay. And what date was that on this email?

15 A. That was June 14<sup>th</sup>.

16 Q. Okay. So approximately a week after he first came in, is  
17 that correct?

18 A. Yes.

19 Q. Okay. If you go to two pages later, there's another email.  
20 It's basically -- it's from Stacey. Excuse me. I'm sorry.  
21 It's from Nancy?

22 A. Yes.

23 Q. Okay. Did Nancy want more information about his ID?

24 A. Yes.

25 Q. Okay. Then if you go to the next page -- oh, I'm sorry.

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Hayes - Cross

1 Can we go back one. What date is that email?

2 A. This is June 21<sup>st</sup>.

3 Q. So if you go to the next page, the same exhibit, Government  
4 Exhibit 102-F. So after your investigation, your findings, you  
5 had to answer her what the People published earlier on your  
6 email on the bottom.

7 A. Yes.

8 Q. Okay. Does it say Mahmoud Thiam is the minister of mines?

9 A. Yes.

10 Q. How did that information come about?

11 A. This is information provided to Ajay.

12 Q. Would that be from Mr. Thiam?

13 A. Yes.

14 Q. Okay. Did he tell you the purpose of the account?

15 A. The purpose of the account?

16 Q. Yes. On this email.

17 If you look in the bottom section where there's like a  
18 space between the bullet points.

19 A. Yes.

20 Q. Okay. It's like the fourth line down?

21 A. Mm-hmm.

22 Q. What does that say?

23 A. "Purpose of Account: New York is his primary residence.

24 The account will be used for his personal use and bill paying.

25 Appointments will be made -- will be the FA," which is

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Hayes - Cross

1 financial adviser, "will be set to speak about financial  
2 planning."

3 Q. Okay. Now when he was asked about being the minister of  
4 mines, you may not know this, but there was some information  
5 that Ajay relayed to you, is that correct?

6 A. Can you rephrase that.

7 Q. Sure. You now know that he's the minister of mines.

8 A. Yes.

9 Q. And you have to make your investigation so you can get more  
10 information, as you testified earlier, that there's some  
11 enhanced investigation on certain individuals who are SCC  
12 status, is that correct?

13 A. Yes, I provide information for compliance to do that  
14 investigation.

15 Q. Okay. If you look at the same email that we're discussing  
16 about, second part, where it starts, "Mahmoud Thiam is the  
17 minister of mines in Guinea," what is the next sentence, if you  
18 can read it to me, please?

19 A. "He has held this position for the last 18 months. His  
20 position is expected to end in October 2010. There will be  
21 elections for a new minister of mines. He was asked to stay on  
22 as minister until a new minister is renamed."

23 Q. Okay. And this information you received before this email  
24 was sent, is that correct?

25 A. I received it the day before.

H511thi3

Hayes - Cross

1 Q. Okay. Can we go back to 102-D, customer info. It's the  
2 customer information file.

3 A. 102-D?

4 Q. Yeah.

5 THE COURT: Do you have a question, counsel?

6 Q. Are you ready?

7 A. Yes.

8 Q. Okay. There's a date under what we discussed before,  
9 American Middle Eastern Resources. What is that?

10 A. I'm sorry. Are you sure this is 102-D?

11 Q. Yes. Second page.

12 A. 102-D is the worksheet.

13 Q. Is that the customer information file?

14 A. No, it's not.

15 Q. Do I have it wrong?

16 C. Sorry. 102-C. It's the second page.

17 A. Yes.

18 Q. What is that date?

19 A. What is the date?

20 Q. No. Excuse me. Underneath American Middle Eastern  
21 Resources, there's a date there. What is that?

22 A. September 10<sup>th</sup>.

23 Q. And what date would that refer to?

24 A. I believe it's the date that he was ending his position.

25 Q. With the minister of mines?



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Hayes - Cross

1 A. I'm sorry. September 10<sup>th</sup> is the date when American  
2 Middle Eastern Resources were to begin.

3 Q. So that's the information that -- is that your handwriting?  
4 I'm sorry.

5 A. Yes, it is.

6 Q. Okay. And where did you get that information from?

7 A. From Ajay.

8 Q. And he got that information from?

9 A. Mr. Thiam.

10 Q. So September 10<sup>th</sup> is the date that AMER, for short, is  
11 going to end.

12 A. It's going to begin.

13 Q. Begin. Excuse me. Going to begin. And what date on the  
14 top of that customer information file do you have?

15 A. June 8<sup>th</sup>.

16 Q. So would it be fair to say sometime a few days after you  
17 found out he was a minister of mines, he gave this information  
18 to Ajay?

19 A. June 8<sup>th</sup> is the day after the account was opened. So  
20 that information would -- I would have gotten the information  
21 on June 8<sup>th</sup>.

22 Q. Okay. All righty. Now you've never met Mr. Thiam, is that  
23 correct?

24 A. No.

25 Q. Okay. And all the information that you got was from Ajay?

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Hayes - Cross

1 A. Yes.

2 Q. And the compliance conference.

3 A. Yes.

4 Q. So would it be fair to say that all the information that  
5 Ajay got was from Mr. Thiam?

6 A. Yes.

7 Q. I just have one more question.

8 Do you know why AMER had to open in September 10<sup>th</sup>?

9 A. No, I do not.

10 Q. Okay. Would it be fair to say that Mr. Thiam might have  
11 had a conflict?

12 MR. KOBRE: Objection.

13 THE COURT: Sustained.

14 MR. DELAKAS: Just give me a moment, your Honor?

15 Q. All right. One more item.

16 When he opens the account again, you don't need to  
17 open up an account with a utility bill, is that correct?

18 A. Only if you need to provide proof of address.

19 Q. And how did he provide proof of address?

20 A. On his New York State driver's license.

21 Q. Okay. And that had the address of? If you remember.

22 A. 340 -- I don't know -- I don't remember the full address.

23 Q. Okay. It's 340 East 64<sup>th</sup>. Would that refresh your  
24 recollection?

25 A. I would have to look at the document. I don't remember off

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Hayes - Cross

1 the top of my head.

2 Q. Okay. So 102-B. It's the first one.

3 A. Can it be put up on the screen?

4 MR. DELAKAS: Mr. Beer, can you do that, please.

5 A. If I can just look at the CIF screen, because that's the  
6 address.

7 340 East 64<sup>th</sup> Street, Apartment 14H, New York, New  
8 York.

9 (Continued on next page)

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Hayes - Cross

1 BY MR. DELAKAS:

2 Q. Do you have that information from the CIF where you got  
3 from the New York State driver's license, is that correct?

4 A. Yes.

5 Q. While we have that screen up there, on the bottom, do you  
6 have something, customer be classified as a special category of  
7 client, what's the answer to that?

8 A. It has an N for no.

9 Q. And then right after that, is the customer PEP, per se,  
10 politically exposed person?

11 A. Correct. The answer is no.

12 Q. Then "politically exposed person automatic scan," the  
13 answer is blank?

14 A. Yes.

15 Q. Those questions weren't asked when he first came into the  
16 bank. Is that correct?

17 MR. KOBRE: Objection.

18 MR. DELAKAS: I'll rephrase it.

19 THE COURT: Overruled.

20 Q. Were those questions asked when he first came in to open  
21 the account?

22 A. I wasn't in the interview, but whenever the, that question  
23 is on the screen, the banker is required to ask that question.

24 Q. So there's a possibility those questions weren't asked?

25 MR. KOBRE: Objection.

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Hayes - Redirect

1 THE COURT: Sustained.

2 MR. DELAKAS: I have no further questions, your Honor.

3 MR. KOBRE: Just briefly.

4 REDIRECT EXAMINATION

5 BY MR. KOBRE:

6 Q. Ms. Hayes, based on your review of the documents that  
7 Mr. Damle provided to you for your initial review, was there  
8 any indication anywhere --

9 THE COURT: Excuse me, counsel.

10 You may be seated.

11 MR. DELAKAS: Yes.

12 Q. Based on your review of the documents that Mr. Damle  
13 provided to you for your review from his initial encounter with  
14 Mr. Thiam, was there any indication anywhere that Mr. Thiam was  
15 a government official?

16 A. No.

17 MR. KOBRE: Nothing further.

18 THE COURT: Any recross?

19 MR. DELAKAS: No, your Honor.

20 THE COURT: You may step down.

21 (Witness excused)

22 THE COURT: Next witness.

23 MR. DiMASE: The government calls Ajay Damle.

24 AJAY DAMLE,

25 called as a witness by the Government,

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Damle - Direct

1           having been duly sworn, testified as follows:

2       DIRECT EXAMINATION

3       BY MR. DiMASE:

4       Q.   Good morning, Mr. Damle.

5       A.   Good morning.

6       Q.   Where do you currently work?

7       A.   I work for Citibank.

8       Q.   What's your current position at Citibank?

9       A.   I work in sales operations.

10      Q.   How long have you been there?

11      A.   About three weeks.

12      Q.   Say that again.

13      A.   Three weeks.

14      Q.   So you just started recently?

15      A.   Yes.

16      Q.   Did you work at any other banks prior to Citibank?

17      A.   Yes, I worked for M&T Bank. I worked for Wachovia Bank,  
18      and then HSBC.

19      Q.   When did you start at M&T Bank?

20      A.   I started in the summer of 2004.

21      Q.   How long did you work there?

22      A.   Roughly two years.

23      Q.   What was your position there?

24      A.   I went through a management-and-sales-development program,  
25      by the end of which I was an assistant branch manager and

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Damle - Direct

1 eventually a branch manager.

2 Q. What were your basic duties and responsibilities at M&T  
3 Bank?

4 A. I worked with the bank's customers. I helped them open  
5 various types of accounts, established loans, and invest their  
6 money if they needed it.

7 Q. You said two years you were there, is that right?

8 A. Roughly, yes.

9 Q. So am I right that it was around 2006 that you went to  
10 Wachovia?

11 A. Yes.

12 Q. Why did you leave M&T Bank?

13 A. I received a better offer from Wachovia to go work in the  
14 city.

15 Q. What did you do at Wachovia?

16 A. I was what was called a financial specialist. I was  
17 basically like a personal banker.

18 Q. What were your duties in that job?

19 A. They were similar. I worked with the bank's customers. I  
20 helped them open different types of accounts, do lending and  
21 investments.

22 Q. How long were you at Wachovia for?

23 A. Roughly two years.

24 Q. Now we're into approximately 2008, is that right?

25 A. Yes.

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Damle - Direct

1 Q. Where did you go after Wachovia?

2 A. I went to work for HSBC bank.

3 Q. And specifically what location of HSBC bank did you move  
4 to?

5 A. I was at the branch on Madison Avenue and 78th Street, New  
6 York.

7 Q. And how long did you work at HSBC at that branch?

8 A. Roughly three years.

9 Q. And so is it fair to say that you were working there, so  
10 you were working there in 2010 --

11 A. Yes, I was.

12 Q. What was your position at HSBC?

13 A. I was what was called a premier relationship manager.

14 Q. Could you describe for the jury what that position entails?

15 A. Yes. Premier relationship manager worked with what HSBC  
16 referred to as premier customers, who are high-net-worth  
17 clients with certain assets with the bank, and I worked with  
18 them around their banking, lending, and investment needs.

19 Q. Just to go back to your transition from Wachovia to HSBC,  
20 why did you make that move?

21 A. Once again, I received a better offer from HSBC to join the  
22 company.

23 Q. Who did you report to at the HSBC Madison Avenue branch?

24 A. I reported to both a branch manager, who worked at the  
25 branch, and I also reported to a sales manager, who managed



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Damle - Direct

1 premier relationship managers within New York.

2 Q. Did anyone work in the area of compliance?

3 A. Yes, we had an assistant branch manager by the name of  
4 Stacey Hayes.

5 Q. And could you, very briefly, describe what functions she  
6 performed at the branch?

7 A. It was her job to validate identification and  
8 account-opening documents that were collected during account  
9 opening.

10 Q. Now, in your position at the HSBC branch, did you have  
11 involvement setting up bank accounts for high-net-worth clients  
12 from time to time?

13 A. Yes.

14 Q. I'm going to direct your attention now to June 7 of 2010.  
15 Did you have occasion on that day to meet with any such  
16 clients?

17 A. Yes.

18 Q. Who did you meet with that day?

19 A. I met with Mr. Mahmoud Thiam.

20 Q. Had you ever met Mr. Thiam before June 7, 2010?

21 A. No.

22 Q. What was the purpose of the meeting on June 7, 2010?

23 A. Mr. Thiam had come to our branch to establish a premier  
24 relationship with HSBC in the United States.

25 Q. And when you say establish a premier relationship, what

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Damle - Direct

1 does that mean?

2 A. He needed to open bank accounts in the United States with  
3 HSBC.

4 Q. Were you able to check HSBC's systems to see if Mr. Thiam  
5 had any preexisting relationship with HSBC?

6 A. Yes. I did.

7 Q. And what did you find out from running that check?

8 A. Within the HSBC directory, I did establish that Mr. Thiam  
9 was a premier client in Hong Kong.

10 Q. Other than that fact, in other words, that he was a premier  
11 client in Hong Kong, were you able to access any other  
12 information about the bank account in Hong Kong?

13 A. No, I don't believe so.

14 Q. Were you able to access any account-opening documents, to  
15 the best of your recollection?

16 A. No.

17 Q. And account statements from that HSBC Hong Kong account?

18 A. No.

19 Q. Generally speaking, Mr. Damle, during that June 7 meeting,  
20 what did you and Mr. Thiam discuss?

21 A. We discussed what his needs would be for a banking  
22 relationship insofar as what types of accounts he would need,  
23 what type of process he would need to go through to open those  
24 accounts, and that's what we discussed.

25 Q. Were, in fact, accounts opened following the meeting?

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Damle - Direct

1 A. Yes, they were.

2 Q. What kind of accounts?

3 A. We opened a checking and savings account.

4 Q. Can you just briefly describe the process of when a  
5 customer comes in to meet with you to open a bank account when  
6 you were at HSBC?

7 A. Sure, so after the initial discussion that I described  
8 earlier where we discussed what types of accounts would be  
9 appropriate, if we moved forward to account opening, I would  
10 collect certain information and documents from the customer,  
11 verifying his identity and other personal details. I would put  
12 those into a system. An account and multiple accounts would be  
13 opened and subsequently signed by the client.

14 Q. So you mentioned a couple of different things there. You  
15 said that you obtained identifications from the client?

16 A. Yes.

17 Q. And what kinds of identification do you usually request?

18 A. Ordinarily, there would be government-issued IDs in the  
19 form of passports, driver's licenses, things like that.

20 Q. And you also mentioned certain pieces of information that  
21 you would obtain from the client. Could you describe some of  
22 the different pieces of information you would seek in your  
23 initial meeting?

24 A. Yes, I needed information like the customer's employment  
25 information, the source of wealth, their citizenship status,

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Damle - Direct

1 tax ID information, if that were applicable.

2 Q. What's the purpose of gathering that information about a  
3 client when they set up an account?

4 A. To understand the clients whose money that we're housing.  
5 It's to understand if there's any conflicts of interests with  
6 regards to the types of accounts we're setting up, and  
7 understand how they're going to be using the accounts.

8 Q. Are you familiar with the terms KYC and CIP?

9 A. Yes.

10 Q. Can you briefly describe what those terms mean?

11 A. KYC stands for know your customer, and CIP involves  
12 customer identification policy.

13 Q. And so what kind of information falls under the bucket of  
14 know your customer?

15 A. That involves questions around what type of expected  
16 transactions we, the bank should be expecting; understanding,  
17 as I said before, the source of wealth of the client. Just  
18 basically understanding who we are working with on a  
19 customer-bank relationship.

20 Q. What kinds of information fall under the bucket of CIP?

21 A. CIP involves the actual identification of the client,  
22 things like a tax ID number, social security number, and the  
23 forms of identification like passport, driver's license, as I  
24 said.

25 Q. Now, with respect to the information you gathered during

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Damle - Direct

1 your meeting, what do you do with that information? Do you  
2 input it anywhere?

3 A. Yes, there is a bank system that we would use. I would  
4 input the client's answers to my questions around know your  
5 customer, and I would also have to collect copies of the  
6 identification documents the client presented.

7 Q. Is there any process in place for the -- or, withdrawn.

8 Was there any process at HSBC at that time in place for the  
9 review of new accounts opened at the bank?

10 A. Yes. After collecting the information and collecting the  
11 documents, I would pass those on to the operations or assistant  
12 manager, Stacey.

13 Q. In this case, was that Ms. Hayes?

14 A. Yes. Yes, it was.

15 Q. Was that review process conducted for just a select group  
16 of new accounts or for all accounts?

17 A. It's for all accounts.

18 Q. I'm going to ask you now to look at Government Exhibit 102A  
19 in evidence.

20 MR. DiMASE: And Mr. Beer, would you please publish  
21 that exhibit for the jury.

22 Q. Do you recognize that document?

23 A. Yes.

24 Q. What is it?

25 A. It's what's called a master deposit agreement for personal

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Damle - Direct

1 accounts. This is also referred to as a signature card.

2 Q. And when was this completed?

3 A. This would have been generated as soon as the account was  
4 opened, that same day.

5 Q. So was this filled out during the meeting of June 7 with  
6 Mr. Thiam?

7 A. Yes, it was.

8 Q. Whose signature is here in the middle of the page where it  
9 says signature?

10 A. That's Mr. Thiam's signature.

11 Q. And it has the date of June 7, 2010?

12 A. It does.

13 Q. Did he sign in your presence?

14 A. He did.

15 Q. And whose signature is at the bottom of the page?

16 A. That is also his signature.

17 MR. DiMASE: Let me turn to Government Exhibit 102B in  
18 evidence, and I'll ask Mr. Beer to publish that.

19 Q. Do you see that on the screen, Mr. Damle?

20 A. Yes.

21 Q. What is this?

22 A. This is a copy of Mr. Thiam's passport that he presented at  
23 account opening.

24 Q. And from what country is this passport?

25 A. It's a United States passport.

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Damle - Direct

1 Q. Turning your attention to page 2 --

2 MR. DiMASE: Mr. Beer, scroll down to page 2.

3 Q. -- what is this?

4 A. That is a New York State driver's license that Mr. Thiam  
5 presented.

6 Q. And there are notes here in the bottom left-hand corner of  
7 the document. Do you see those, Mr. Damle?

8 A. Yes.

9 Q. Whose notes are those?

10 A. Those are mine.

11 Q. What is the purpose of the notes you wrote there?

12 A. Those are to verify both the client's name, the location  
13 that branch 682 -- 628 was the branch the account was opened  
14 at, the date I reviewed the documents, and that's my signature.

15 Q. That's a verification that you received those documents on  
16 that date?

17 A. Correct.

18 MR. DiMASE: Let's turn now to Government Exhibit  
19 102C.

20 Q. Do you recognize these two -- well, the document that's in  
21 front of you now, do you recognize that, Mr. Damle?

22 A. I do.

23 Q. What is it?

24 A. That's a screenshot from a system called customer  
25 identification -- sorry, customer information file.

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Damle - Direct

1 Q. What is the customer information file system?

2 A. That's the system or database where the information I would  
3 have input at account opening would be displayed.

4 Q. So with respect to Government Exhibit 102C, where did the  
5 information inputted into this screenshot come from?

6 A. It came from the answers Mr. Thiam gave to me as I was  
7 opening his account.

8 Q. What did Mr. Thiam say regarding his then employment during  
9 the meeting?

10 A. He said that he was employed with a company called AMER.  
11 He described his occupational role within that company as the  
12 chairman. He gave his address as 340 East 64th Street address  
13 and the phone number you see there, and he explained that his  
14 source of wealth was from his employment, and that the business  
15 that AMER was involved in was mining and natural resources  
16 consultant.

17 Q. Where did he say that his employer was located?

18 A. He listed his location at 340 East 64th Street.

19 Q. And did you see that address earlier in the interview?

20 A. Yes. That was also the address on his driver's license.

21 Q. Now, I'll draw your attention to the bottom of the page --  
22 not the bottom, the middle of the page. Do you see those  
23 notes?

24 A. Yes.

25 Q. Whose notes are those?



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Damle - Direct

1 A. I believe those are Ms. Hayes'.

2 Q. And turning to page 2 of Government Exhibit 102C, there are  
3 notes there as well?

4 A. Yes.

5 Q. Whose notes are those?

6 A. Those, I believe, are also Ms. Hayes'.

7 Q. We'll turn to what you did after meeting, after this June 7  
8 meeting in a moment, but briefly did you provide information  
9 from the meeting to Ms. Hayes after the meeting with Mr. Thiam?

10 A. I did.

11 Q. And where did the information in the notes at the bottom of  
12 pages 1 and 2 of this exhibit come from?

13 A. They came from Mr. Thiam's information that he gave me at  
14 account opening.

15 Q. And with respect to the notes on the first page, where it  
16 says "rocks, precious metals," what does that mean?

17 A. That would be further clarification for Ms. Hayes with  
18 regards to what exactly mining natural resources entailed, that  
19 he was mining rocks and precious metals.

20 Q. Turning -- and that was in connection with the additional  
21 information he provided, is that right?

22 A. Yes.

23 Q. Which was that he was a consultant in mining and natural  
24 resources?

25 A. Yes.

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Damle - Direct

1 Q. And second page of the document, what does American Middle  
2 Eastern Resources mean?

3 A. That would, that would be the, what A-M-E-R stands for.

4 Q. And underneath it, do you see where it says former  
5 employer, banker of Hong Kong?

6 A. Yes.

7 Q. What does that mean?

8 A. That speaks to what Mr. Thiam did in before his position as  
9 chairman of AMER.

10 Q. Do you recall when he said that AMER was going to be  
11 operating?

12 A. I believe at the time that I opened the account, he was  
13 saying that he was already the chairman.

14 MR. DiMASE: I'm going to show you Government Exhibit  
15 102F and ask Mr. Beer to publish it, page 1 of that document.

16 Q. Drawing your attention down near the middle of the page  
17 regarding the information provided at account opening.

18 A. Oh, I'm sorry. Yes. This makes clear that, yes, he did  
19 say during account opening that he had not opened yet but that  
20 he would be working as chairman of AMER.

21 Q. This email here in 102F refreshes your memory of that?

22 A. Yes. Yes, it does.

23 Q. When you asked the question about employment, did you ask  
24 Mr. Thiam what his current employment was?

25 A. I can't remember exactly how I phrased the question.

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Damle - Direct

1 Q. What's your best recollection of how you phrased it?

2 A. My best recollection is I would be asking for current  
3 information.

4 Q. And did Mr. Thiam ever mention during the meeting on June  
5 7, 2010, that he was presently the minister of mines of the  
6 country of Guinea?

7 A. No.

8 Q. Would there have been a place where you would indicate that  
9 position for that role, that governmental role in the CIF  
10 system?

11 A. Yes.

12 Q. Where would you have indicated that?

13 A. I would have indicated that at the bottom of the CIF page  
14 where it specifically asked if they're affiliated with any  
15 government entities or political entities.

16 MR. DiMASE: Could I ask, Mr. Beer, to publish 102C  
17 again for the jury, and expand the portion beginning "is  
18 customer to be classified as."

19 Q. Can you just indicate to the jury, using what's on the  
20 screen, what you were discussing a moment ago?

21 A. Yes. It says there: "Is the customer to be classified as  
22 a special category of client? Yes or no." Here we've entered  
23 no. "Is he a politically exposed person or foreign government  
24 related?" And again the answer is no.

25 Q. Had he said that he was at the time the minister of mines

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Damle - Direct

1 of Guinea, what additional steps would you have taken?

2 A. There would be other paperwork and other questions that  
3 would need to be asked and then subsequently filed with regards  
4 to the nature of the position he holds.

5 Q. And what is the purpose of that additional paperwork and  
6 collection of information?

7 A. The purpose is to make sure that the funds that that bank  
8 is housing are not the result of any ill-gotten gains or  
9 corruption or anything that would put the bank at risk.

10 Q. What kinds of documents would need to be filled out,  
11 specifically?

12 A. There would need to be questions with regards to exactly  
13 what the nature of the client's role is within the government  
14 or government agency. We'd need to understand things as far as  
15 the expected transactions, wire transfers, cash deposits and  
16 things like that.

17 MR. DiMASE: Let me now turn to Government Exhibit  
18 102D and ask Mr. Beer to publish page 1 of that document to the  
19 jury.

20 Q. Do you recognize this document?

21 A. Yes.

22 Q. What is it?

23 A. This was a worksheet that we printed out along with the  
24 signature card at account opening.

25 Q. And where did the information come from?

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Damle - Direct

1 A. This all came from Mr. Thiam's answers to my questions.

2 Q. And generally speaking, what kind of information is  
3 inputted into these worksheets?

4 A. General demographic information around his address, social  
5 security number, identification number, and employment.

6 Q. The first page of the document, what account does this  
7 refer to?

8 A. There's an account number at the top left ending in 816.  
9 This would either be the checking or savings account number  
10 that we set up.

11 Q. And turning to page 2, what account does this document  
12 refer to?

13 A. So this is the account ending in 733. This is either --  
14 the opposite, either the checking or savings we opened that  
15 day.

16 Q. So one of the two pages relates to the checking account and  
17 one the savings account?

18 A. Correct.

19 Q. And turning your attention to the third and fourth pages,  
20 taking a look at the third page first, what is that?

21 A. This simply reflects the relationship that we opened, all  
22 the products and services that were signed up for for the  
23 client.

24 Q. And this is in connection with one of the two accounts in  
25 particular?

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Damle - Direct

1 A. It involves both of them. There's the HSBC premier, which  
2 is the checking. There's the HSBC premier investor, which is  
3 the savings. And then checks, master -- debit card, statement  
4 summary, and placement summary.

5 Q. Turning your attention to page 4, what's reflected in this  
6 page of Government Exhibit 102D?

7 A. This is the same information, the HSBC premier account,  
8 checks and debit card.

9 Q. So you indicated earlier that the two accounts were opened  
10 at the conclusion of this meeting?

11 A. Yes.

12 Q. Do you recall if the account was funded on the day that it  
13 was opened?

14 A. I do not believe it was.

15 Q. Was it funded at some point thereafter?

16 A. Yes.

17 Q. I'll ask you -- I'm showing you what's in evidence as  
18 Government Exhibit 101. Did you have a chance to look at that  
19 exhibit, Mr. Damle?

20 A. Yes, I have.

21 Q. What is it?

22 A. This is a statement from the account that we opened up.

23 Q. And to be clear, is there more than one statement contained  
24 in that exhibit?

25 A. Yes, there are multiple statements.

H51Wthi4

Damle - Direct

1 Q. And fair to say these are account statements relating to  
2 the two accounts set up at HSBC on June 7?

3 A. Yes.

4 Q. I'm going to ask you to look at page 2 of Government  
5 Exhibit -- actually, withdrawn.

6 I'll ask you to take a look at page 1 of Government  
7 Exhibit 101.

8 MR. DiMASE: I ask Mr. Beer to publish that to the  
9 jury.

10 Q. Can you tell the jury which statement this is, what period  
11 it covers?

12 A. Yes, this is from the -- this is the first statement from  
13 when the account was opened until June 22 of 2010.

14 Q. And looking at the second page of the document, you  
15 indicated a moment ago that you don't believe the account was  
16 funded on the day it was opened?

17 A. Yes.

18 Q. But you said it was funded sometime thereafter?

19 A. Yes.

20 Q. Can you tell from page 2 of Government Exhibit 101 when it  
21 was funded?

22 A. Yes.

23 Q. Initially?

24 A. Yes, it was funded two days later on June 9.

25 Q. How was it funded?

H51Wthi4

Damle - Direct

1 A. It was funded via wire transfer of \$300,000.

2 Q. Can you tell from the document you're looking at where that  
3 money originated from?

4 A. Yes, it came from HSBC in Hong Kong from an account housed  
5 in Mr. Thiam's personal name.

6 Q. Let me just ask you a couple of questions about wire  
7 transfers. What is a wire transfer?

8 A. A wire transfer is an electronic transmittal of funds  
9 between bank accounts.

10 Q. Can you explain how wire transfers are generally initiated?

11 A. Yes, they need to be initiated by the party that is sending  
12 the funds out of the bank account. Depending on the  
13 institution there is various different ways it can be done,  
14 either online or in person, via written authorization.

15 Q. And what happens once that request is made by the  
16 individual wanting to send the money?

17 A. The bank, the bank, financial institution will put those  
18 details into their system and the funds will be remitted  
19 electronically, depending on whether it's international or  
20 domestic, via different channels to the recipient institution.

21 Q. And ultimately, the money will be sent from the requesting  
22 customer's account to the account to which they've directed the  
23 funds?

24 A. Yes.

25 Q. And you said that those wire transfers can be either



H51Wthi4

Damle - Direct

1 domestic, meaning in the United States, or international?

2 A. Yes.

3 MR. DELAKAS: Objection, your Honor.

4 THE COURT: Overruled.

5 Q. Is that right?

6 A. Yes, it is.

7 Q. Let me also ask you to look at page 4 -- actually,  
8 withdrawn, page 3 of Government Exhibit 101. Can you tell the  
9 jury what period this statement covers?

10 A. Yes, it covers the period from June 23, 2010, to July 23,  
11 2010.

12 Q. And drawing your attention to the second page of that  
13 statement or page 4 of the document, were there any  
14 transactions from the account on June 29 of 2010?

15 A. Yes, there was an outgoing wire transfer in the amount of  
16 \$35,808.60.

17 Q. And can you tell where that money was directed?

18 A. Yes. It indicates it was directed to the Dalton School.

19 Q. Do you know, have you heard of the Dalton School?

20 A. Yes, I have.

21 Q. What is it?

22 A. My understanding it's a very prestigious private school in  
23 New York.

24 MR. DELAKAS: Objection, your Honor.

25 THE COURT: Sustained. The answer is stricken.

H51Wthi4

Damle - Direct

1 Q. Is it fair to say that, to your knowledge, it's a private  
2 school located in New York?

3 A. Yes, to my understanding.

4 Q. And were there any other transactions the day before that?

5 A. Yes. There was one transaction on June 28.

6 Q. What was that transaction for?

7 A. That's a \$21,000 payment to FIA Cardservices, a credit card  
8 payment.

9 Q. It says pay by phone. What does that mean?

10 A. That means the client would initiate the phone, the payment  
11 via the telephone with their bank, with their credit card  
12 company.

13 Q. Now, you indicated that -- actually, withdrawn.

14 At the end of your initial meeting on June 7 with  
15 Mr. Thiam, what did you do with the information that you  
16 collected?

17 A. I collected all the signed documents and the identification  
18 documents into a file and presented them to Stacey, or Ms.  
19 Hayes, for inspection.

20 Q. And did there come a time that Ms. Hayes came back to you  
21 with additional questions regarding these accounts?

22 A. Yes.

23 MR. DiMASE: Let's turn to 102E in evidence, and I'll  
24 ask Mr. Beer to publish page 1.

25 Q. Do you recognize page 1 of 102E, Mr. Damle?

H51Wthi4

Damle - Direct

1 A. Yes.

2 Q. What is it?

3 A. It's a list of questions or requests for information from  
4 Ms. Hayes to myself.

5 Q. And the notes on this page, whose notes are they?

6 A. I believe they're Ms. Hayes'.

7 Q. Turning to the second page of the document, whose notes are  
8 those?

9 A. They are Ms. Hayes' questions.

10 Q. And when you say questions, are there answers listed here  
11 on this sheet of notes?

12 A. Yes, to the right of the questions and below.

13 Q. Whose handwriting is to the right of the questions and  
14 below?

15 A. That's my handwriting.

16 Q. And turning to the third page, whose notes are these?

17 A. These are Ms. Hayes'.

18 Q. Do you know when the four questions at the top of that page  
19 were -- well, when those notes were taken?

20 A. I don't know the exact date. It was sometime after account  
21 opening.

22 Q. And then there are additionally questions listed at the  
23 bottom of that page, one, two, three, and four?

24 A. Yes, those would be some of the responses from the  
25 preceding questions.

H51Wthi4

Damle - Direct

1 Q. When you say preceding questions, you mean the questions  
2 that were posed on the second page of notes?

3 A. Yes.

4 MR. DiMASE: Turn to the final page.

5 Q. Whose notes are these?

6 A. These are Ms. Hayes' notes.

7 Q. And are these answers also in connection with the questions  
8 posed on page 2 of the notes?

9 A. Page 1 and 2.

10 Q. And these are Ms. Hayes' notes, you said?

11 A. Yes.

12 Q. So in terms of communicating information to Ms. Hayes, how  
13 did you do that with respect to these questions?

14 A. I would collect the information from the client and then I  
15 would pass those along to Ms. Hayes verbally.

16 Q. And you indicated that some of the notes are actually your  
17 notes as well, right?

18 A. Yes.

19 Q. And did you provide those, in addition to your verbal  
20 communications with Ms. Hayes, did you provide your handwritten  
21 notes to her as well?

22 A. I did.

23 MR. DiMASE: Let me turn to 102F.

24 Q. I'm going to hand you that exhibit. Take a look through  
25 that for a moment. Do you recognize those documents?

H51Wthi4

Damle - Direct

1 A. Yes, I do.

2 Q. What are they?

3 A. They are email communications from Ms. Hayes to various  
4 members of our compliance unit.

5 Q. Where did the information contained about -- in those  
6 emails about Mr. Thiam come from?

7 A. They came from the interview I had with Mr. Thiam on  
8 account opening.

9 Q. OK. And are there emails that concern a second meeting  
10 with Mr. Thiam in those emails as well?

11 A. Yes, there are.

12 Q. So that brings me to the question, how did you go about  
13 getting information to answer the questions that Ms. Hayes had?

14 A. I arranged a second meeting with Mr. Thiam.

15 Q. Do you recall when that second meeting occurred?

16 A. Yes, I believe it was July 19.

17 Q. 2010?

18 A. 2010.

19 Q. What was the purpose of that interview?

20 A. It was to collect the further information that the bank was  
21 requesting.

22 MR. DiMASE: So let me ask Mr. Beer to again publish  
23 page 2 of Government Exhibit 102E.

24 Q. I'll also show you hard copies of Government Exhibit 102E  
25 in evidence, which you're free to refer to.

H51Wthi4

Damle - Direct

1           What's the first question that Ms. Hayes wrote here on  
2 page 2 of 102E?

3 A. She asked, What type of company is AMER?

4 Q. And based on your notes and the notes Ms. Hayes made of  
5 your verbal communications with her, can you tell the jury what  
6 Mr. Thiam told you in answer to that question?

7 MR. DELAKAS: Objection, your Honor.

8 THE COURT: Foundation.

9 BY MR. DiMASE:

10 Q. You said that you had a meeting with Mr. Thiam on July 19,  
11 2010, is that right?

12 A. Yes.

13 Q. Did you ask the questions that Ms. Hayes wanted you to ask  
14 to Mr. Thiam?

15 A. I did.

16 Q. And drawing your attention to the first question, What type  
17 of company is AMER, did you ask Mr. Thiam that question?

18 A. I did.

19 Q. What did he say?

20 A. He said, he said that the company was involved in mining  
21 natural resources, real estate as well as tourism and  
22 consulting, and that they were purchasing assets in all of  
23 those interests.

24 Q. With respect to the second question, did you ask that  
25 question to Mr. Thiam as well?

H51Wthi4

Damle - Direct

1 A. I did.

2 Q. What was the question?

3 A. "What type of clients will he deal with?"

4 Q. And the word "he" there, does that refer to Mr. Thiam?

5 A. It refers to Mr. Thiam, yes.

6 Q. During the meeting on July 19, what did Mr. Thiam say in  
7 answer to that question?

8 A. He explained that his clients will be institutional and  
9 personal, international, both institutions as well as people.

10 Q. Moving on to the third question, what was the third  
11 question?

12 A. Whether the company had been established.

13 Q. And did you ask that question of Mr. Thiam?

14 A. I did.

15 Q. What did he say?

16 A. He said that the company had been established, but he was  
17 not affiliated with the company yet.

18 Q. What was the fourth question?

19 A. Fourth question was, Where is the location of the company?

20 Q. Did you ask that question of Mr. Thiam as well?

21 A. I did.

22 Q. What did he tell you in response?

23 A. That the location was headquartered in Dubai and New York,  
24 but it was a multinational company.

25 Q. The fifth question here appears to be crossed out, but what

H51Wthi4

Damle - Direct

1 was the question?

2 A. What type of clients --

3 MR. DELAKAS: Objection, your Honor.

4 THE COURT: Overruled.

5 A. "What type of clients will he deal with?"

6 Q. And did you ask that question of Mr. Thiam as well?

7 A. Yes, it was a duplicate of the previous question.

8 Q. What information did you get in connection with that  
9 question?

10 A. That he'd be working with international -- international  
11 individuals and institutions.

12 Q. Drawing your attention to the fourth page of Government  
13 Exhibit 102E, is there an answer --

14 A. Yes.

15 Q. -- that relates to that question in particular?

16 A. Yes, that he'd be working with clients in the Middle East  
17 and Africa about 90 percent.

18 Q. Meaning that approximately 90 percent of the clients would  
19 be in that region of the world?

20 A. That's correct.

21 Q. What was the sixth question?

22 A. Sixth question was, What was the purpose of the account?

23 Q. And what did Mr. Thiam say?

24 A. He explained that New York would be his primary place of  
25 residence, that the account would be largely operational for



H51Wthi4

Damle - Direct

1 personal use and to pay bills.

2 Q. What was the following question?

3 A. The source of the funds, \$300,000.

4 Q. Now, did this refer to the \$300,000 that had been wired in  
5 from Hong Kong on June 29?

6 A. June 9.

7 Q. June 9?

8 A. June 9.

9 Q. I'm sorry.

10 A. Yes.

11 Q. And this meeting happened on July 19?

12 A. Yes.

13 Q. So those funds were already in the account at this point?

14 A. They were.

15 Q. And what did Mr. Thiam say about the source of that  
16 \$300,000?

17 A. He explained that they were savings from past employment  
18 and that he had sold land in Africa about three to four months  
19 prior.

20 Q. Meaning approximately three to four months before your  
21 meeting with him that day?

22 A. Correct.

23 Q. What was the next question?

24 A. The next question was, How long has he been banking with  
25 HSBC in Hong Kong?

H51Wthi4

Damle - Direct

1 Q. And what did Mr. Thiam say about that?

2 A. That he'd been banking with HSBC in Hong Kong for roughly  
3 18 months.

4 Q. Let me turn back to the third question about AMER. Did you  
5 ask Mr. Thiam why he said at the first meeting that he was  
6 chairman of AMER?

7 A. I did.

8 Q. What did he say?

9 A. He explained that he would shortly be assuming the post as  
10 chairman of AMER but that he was not presently.

11 Q. Why did he explain he wasn't?

12 A. He explained that he was currently the minister of mines in  
13 Guinea and that as long as he held that position, he could not  
14 hold the position of chairman of AMER.

15 Q. Let me turn to the last question. What was that question?

16 A. "Is he the minister of mines in Guinea?"

17 Q. Do you recall when during the meeting with Mr. Thiam on  
18 July 19 you posed that question to him? In other words, was it  
19 early in the meeting, late in the meeting?

20 A. I believe it was early in the meeting.

21 Q. Why was that?

22 A. Because it was contradictory to the information he had  
23 given me at account opening.

24 Q. Do you have a memory of that discussion?

25 A. I believe so, yes.

H51Wthi4

Damle - Direct

1 Q. What do you recall him saying?

2 A. I recall him explaining that it would be a conflict of  
3 interest for him to serve as both the chairman of AMER as well  
4 as the minister of mines of Guinea; that he was in the process  
5 of transitioning out of that role, and when the transition was  
6 complete, he would assume the position of chairman of AMER.

7 Q. Let me ask it another way. When he came in on July 19, did  
8 he volunteer without a question that he was the minister of  
9 mines?

10 A. No.

11 Q. How did you find out he was?

12 A. I explained to him that it had come to our attention that  
13 he could possibly hold the position, and I explained to him the  
14 bank needed to know exactly what his position was and whether  
15 he was the minister of mines in Guinea.

16 Q. What did he say in answer to that question?

17 A. He said he -- he did say that, yes, he was in the minister  
18 of mines and that he was in the process of transitioning out of  
19 that role, but currently he was the minister of mines.

20 Q. Did you ask him why he didn't talk about that at the first  
21 meeting?

22 A. I did ask for him to just clarify why he explained that  
23 was the chairman of AMER, and he explained that he would be  
24 assuming that role upon the transition out of his current  
25 position.

H51Wthi4

Damle - Direct

1 Q. As a result of his reporting in that July 19 meeting that  
2 he was, in fact, the minister of mines, was his classification  
3 changed in HSBC's systems?

4 A. It was.

5 Q. Explain that for the jury.

6 A. From the previous slide we had seen where it asked if the  
7 person was a politically exposed individual or special category  
8 of client, we had to change that answer to yes, and we had to  
9 fill out the additional paperwork.

10 Q. Did you fill out that paperwork?

11 A. No.

12 MR. DiMASE: I'll ask you to look at 102G and ask  
13 Mr. Beer to publish it to the jury.

14 Q. What is that form?

15 A. That's the special-category-of-client form.

16 Q. And this is the paperwork that was required once you  
17 learned that he was, in fact, the minister of mines?

18 A. Yes.

19 Q. And who filled this out?

20 A. Ms. Hayes.

21 Q. Were there any additional transfers of money into the  
22 account after that second meeting with Mr. Thiam on July 19?

23 A. Yes, there were.

24 Q. I'm going to ask you to look at page 6 of Government  
25 Exhibit 101.

H51Wthi4

Damle - Direct

1 A. Yes.

2 Q. When was that additional transfer?

3 A. That came -- sorry. That came in on July 26 of 2010.

4 MR. DiMASE: I'd ask Mr. Beer to publish the sixth  
5 page of Government Exhibit 101. Mr. Beer, could you highlight  
6 the transaction on, at the top of page July 26? Do you have  
7 that?

8 Q. Where did those funds -- first of all, how much money was  
9 it?

10 A. It was \$100,000.

11 Q. Where did those funds originate from?

12 A. They originated from HSBC Hong Kong.

13 Q. How do you know that?

14 A. The description states the global transfer with Hong Kong.

15 Q. Is there a difference between a, quote, global transfer and  
16 a standard wire transfer?

17 A. There are differences, yes.

18 Q. What is a global transfer?

19 A. A global transfer refers to a transfer made within HSBC  
20 systems between linked accounts in different countries.

21 Q. And so it refers to a transfer of money from a Hong Kong,  
22 HSBC account elsewhere in the world?

23 A. Yes.

24 Q. How does one go about initiating a global transfer of money  
25 in the HSBC system, or at least how would one have done it in

H51Wthi4

Damle - Direct

1 2010?

2 A. One would access their respective accounts in both  
3 countries online and link the two through a system called HSBC  
4 Global View. Once that linkage has been established, they're  
5 able to transfer funds between their accounts.

6 Q. And you said that this came from Hong Kong. Does that mean  
7 from an HSBC account in Hong Kong?

8 A. Yes.

9 Q. Can you tell who was the beneficial owner of that account  
10 in Hong Kong?

11 A. It would only be able to -- it would only be possible to  
12 come from the client's own account in the foreign country. The  
13 linkages can only be made between your own accounts.

14 Q. So based on that, you can tell that this would have come  
15 from a HSBC Hong Kong account that was owned by Mr. Thiam?

16 A. Yes.

17 Q. Were there any additional meetings which you attempted to  
18 arrange with Mr. Thiam after the July 19 meeting?

19 A. Yes. At the time of the July 19 meeting, we had agreed to  
20 meet the following week, I believe on the 26th, for a follow-up  
21 meeting.

22 Q. And what was the purpose of that follow-up meeting?

23 A. The purpose of that meeting was for him, for me to  
24 introduce him to our financial adviser partner to discuss  
25 allocating some of the funds in the account and -- you know, in

H51Wthi4

Damle - Direct

1 different ways.

2 Q. Were you attempting to seek investment of some of the money  
3 at HSBC?

4 A. Yes.

5 Q. Was that part of your job at HSBC at the time?

6 A. Yes.

7 Q. What happened with respect to that meeting?

8 A. Mr. Thiam never showed up for that meeting, so it was  
9 canceled.

10 Q. Did he, in fact, communicate with you and tell you he was  
11 not going to be able to make it that day?

12 A. Yes. Yes, he did.

13 Q. Do you know what ultimately happened with the two accounts,  
14 the checking and the savings accounts, at HSBC's Madison Avenue  
15 branch?

16 A. Yes. Eventually the decision was made to close those  
17 accounts.

18 Q. Were you yourself involved in the closing of the accounts?

19 A. I was not involved in the decision. I was involved in  
20 communicating the fact that they were going to be closed.

21 Q. How did you communicate with Mr. Thiam about that matter?

22 A. There was initially a letter sent to Mr. Thiam indicating  
23 that, and then I -- I communicated with him as -- to confirm  
24 the fact that that was the decision made and to confirm what  
25 would be done with the funds left in the account prior to

H51Wthi4

Damle - Direct

1 closure.

2 Q. What did Mr. Thiam instruct you to do with the funds  
3 remaining in the account?

4 A. He wanted the funds transferred to another bank account.

5 Q. Do you remember as you sit here today what account that  
6 was?

7 A. I believe that it was a account held at TD Bank in the  
8 United States under, I believe, his wife's name.

9 Q. I'll ask you to take a look at the eighth page of  
10 Government Exhibit 101.

11 MR. DiMASE: And I'll ask Mr. Beer to publish that  
12 eighth page to the jury as well. Mr. Beer, could you  
13 highlight, or I'm sorry, expand the bottom of the page there,  
14 transactions of 8/24 and 8/25, and could you highlight the 8/25  
15 transaction.

16 Q. Can you explain to the jury, Mr. Damle, the meaning of this  
17 entry?

18 A. Yes. This is an entry in regards to an outgoing wire  
19 transfer of \$130,000 being sent to a beneficiary Fatim Sow  
20 Thiam.

21 Q. Was that a wire of that amount?

22 A. Yes, it's a wire to TD Bank.

23 Q. That was \$150,000?

24 A. 130.

25 Q. 130,000, correct.



H51Wthi4

Damle - Direct

1 Just a few final questions for you, Mr. Damle. Early in  
2 your testimony, you mentioned a question you asked about the  
3 source of the \$300,000 that was deposited into the account at  
4 HSBC New York. Do you remember testifying about that?

5 A. Yes.

6 Q. And you said that you asked Mr. Thiam during the second  
7 meeting about the source of that money?

8 A. Yes.

9 Q. And I think you testified that he said it was from prior  
10 employment earnings and the sale of land in Africa  
11 approximately three or four months ago?

12 A. Yes.

13 Q. Did Mr. Thiam ever, in connection with that money and the  
14 source of that money, ever mention a person named Sam Pa?

15 A. No.

16 Q. Did he ever mention a person named Lo Fung Hung?

17 A. No.

18 Q. Did he ever mention a person named Wang Xiang-Fei?

19 A. No.

20 Q. Did he ever mention a company called China International  
21 Fund, or CIF?

22 A. No.

23 Q. Did he ever mention a company named China Sonangol?

24 A. No.

25 Q. Did he ever mention companies by the names of Gabon,

H51Wthi4

Damle - Cross

1 Bellvue, or Upper Side Management?

2 A. No.

3 Q. Did he ever mention a person by the name of Baker Al-Sadi?

4 A. No.

5 Q. Did he ever say that the money that was transferred into  
6 the HSBC New York account was the proceeds of a personal loan?

7 A. No.

8 MR. DiMASE: Nothing further, your Honor.

9 CROSS-EXAMINATION

10 BY MR. DELAKAS:

11 Q. Good afternoon, Mr. Damle.

12 A. Good afternoon.

13 Q. Your position at the bank, at HSBC is basically to deal  
14 with high-rank customers, is that correct?

15 A. Yes.

16 Q. Having a transfer of \$300,000, is that uncommon?

17 A. No.

18 Q. Now, when you first initiated the conversation with  
19 Mr. Thiam, you asked him for certain IDs, is that correct?

20 A. Yes.

21 Q. And he provided you?

22 A. He provided me with the driver's license and passport.

23 Q. What country was the passport from?

24 A. It was the United States.

25 Q. And the New York -- excuse me. Let me rephrase that.

H51Wthi4

Damle - Cross

1 What other ID did he show you?

2 A. New York State driver's license.

3 Q. Do you remember the address on the driver's license, by any  
4 chance?

5 A. I believe it was the same address that was on the customer  
6 identification file that we looked at.

7 Q. OK. After you collected all this information, you gave it  
8 to Stacey Hayes, is that correct?

9 A. Yes.

10 Q. Did there come a time where she actually asked you to, she  
11 needed you to investigate Mr. Thiam a little bit more?

12 A. Yes.

13 Q. And when did you do that originally?

14 A. The first time I had the opportunity to do that was the  
15 July 19 meeting.

16 Q. 'cause if you look at, I believe it was given to you, the  
17 customer information file, that would be 102C and D -- do you  
18 have it?

19 A. I don't have a hard copy, but I believe I know what you're  
20 talking about.

21 Q. OK. I'm going to give you Government Exhibit 102C and  
22 102D.

23 THE COURT: Counsel, maybe you could have an assistant  
24 walk those documents for you.

25 MR. DELAKAS: Sorry, your Honor.

H51Wthi4

Damle - Cross

1 A. Yes, sir.

2 Q. OK. At 102C, that's the customer information file, is that  
3 correct?

4 A. Yes.

5 Q. And the notes that are underneath, "rocks, precious  
6 metals" --

7 A. Yes.

8 Q. -- is that your handwriting?

9 A. No. Ms. Hayes' handwriting.

10 Q. Now, this document's dated on the top?

11 A. June 8.

12 Q. So there was information coming in of who Mr. Thiam might  
13 have been?

14 A. This was further information when Stacey asked me for  
15 clarification on his, the nature of business is mining and  
16 natural resources consulting, which I clarified for her.

17 Q. So when -- the following day or few days later after the  
18 initial meeting, Ms. Hayes wants more information, right?

19 A. This was the following day, yes.

20 Q. OK. So the following day -- OK. If you look at 102D,  
21 there's some more information there? That's the customer  
22 information file. There's more --

23 A. 102 --

24 Q. No?

25 A. D is the worksheet.

H51Wthi4

Damle - Cross

1 Q. 102C?

2 A. Yes.

3 Q. OK. There's some more written notes there, is that  
4 correct?

5 A. Yes.

6 Q. So there's more information that you were able to obtain  
7 for Ms. Hayes, is that correct?

8 A. Yes, at account opening, from account opening.

9 Q. OK. There is a date there. What does that date say?

10 A. June 8.

11 Q. No, no. Down at the bottom, with the handwritten notes?

12 A. June 10.

13 Q. Do you know what that date signifies?

14 A. I would say yeah.

15 Q. And I believe you have 102F, is that correct.

16 A. Yes.

17 Q. The emails?

18 A. Yes.

19 Q. You're cc'd on a lot of these emails, is that correct?

20 A. Yes.

21 Q. Look at 102F. There's an email on the second page, is that  
22 correct?

23 A. Yes.

24 Q. This is dated what date?

25 A. I believe that's June 14.

H51Wthi4

Damle - Cross

1 Q. The information in this email, I know that you didn't write  
2 the email, but who wrote this email?

3 A. I believe Ms. Hayes did.

4 Q. And how did Ms. Hayes get this information?

5 A. She obtained it from the account information I input and  
6 spoke to her about at account opening.

7 Q. As to the 7th, would that be correct?

8 A. Yes.

9 Q. Going forward, there's another meeting -- email, about two  
10 pages later.

11 A. Yes.

12 Q. Again, I know you did not write this email, but who is this  
13 email from?

14 A. I believe it says from Nancy Pokriki.

15 Q. And basically, who is that person? Do you know that  
16 person?

17 A. I believe she worked in antimoney laundering compliance for  
18 HSBC.

19 Q. Would it be fair to say she's a person that needs more  
20 information?

21 A. I believe so.

22 Q. And you would not deal with her, would you?

23 A. Not directly, no.

24 Q. Could you go to the next page?

25 A. Yes.

H51Wthi4

Damle - Cross

1 Q. This email you're cc'd on, is that correct?

2 A. Yes.

3 Q. OK. Now, do you recognize this email?

4 A. Yes, I have.

5 Q. OK.

6 A. I've seen it. Sorry.

7 Q. Who is this email from?

8 A. This is from Stacey.

9 Q. OK. To the compliance department, correct?

10 A. Yes, I would say yes.

11 Q. How did Stacey get this information?

12 A. This information came from my second meeting with Mr. Thiam  
13 on the 19th of July.

14 Q. And if you go down to the second page -- excuse me. I'm  
15 sorry, the second part of the email, where it says Mahmoud  
16 Thiam is the minister?

17 A. Yes.

18 Q. There was no other conversations prior to the 19th?

19 A. Not that I recall.

20 Q. Was there any telephone conversations?

21 MR. DiMASE: Objection.

22 THE COURT: Overruled.

23 A. Not that I can really.

24 Q. So your first conversation after the 6/7 opening of the  
25 account, the next time that you spoke to Mr. Thiam was July 19,

H51Wthi4

Damle - Cross

1 is that correct?

2 A. No. No, not in regards to this information. I had spoken  
3 with him prior.

4 Q. OK.

5 A. On servicing issues.

6 Q. That's what I was getting at.

7 A. OK.

8 Q. So you had some information prior to July 19, is that  
9 correct?

10 A. I had conversations with him.

11 Q. OK. Would it be fair to say that when you approached  
12 Mr. Thiam -- was this -- I'm sorry. Was this a telephone or  
13 was this an in-person meeting?

14 A. Which, which meeting are you referring to? I'm sorry.

15 (Continued on next page)



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Damle - Cross

1 BY MR. DELAKAS:

2 Q. The one before July 19<sup>th</sup>.

3 A. I'm sorry. I'm not understanding which meeting  
4 specifically you're speaking about.

5 Q. Okay. I'll go back.

6 July 19<sup>th</sup>, you got some information that was the day  
7 before this email was sent.

8 A. Yes.

9 Q. Then you testified that you met him before that to get some  
10 more information.

11 A. I did not meet him for that information. I either  
12 communicated via email or phone call.

13 Q. Okay. So it would be fair to say that after your initial  
14 meeting of the opening of the account, you had another  
15 conversation with him.

16 A. I had communications with him, yes.

17 Q. Communications. Better word. Now that communication was  
18 because Ms. Hayes told you to reach out to Mr. Thiam?

19 A. I can't recall if it was Ms. Hayes or a different part of  
20 the bank that was asking me to reach out to him. But I did  
21 reach out to him.

22 Q. And you needed to ask if he was a minister of mines.

23 A. No. That -- that conversation before July 19<sup>th</sup> was with  
24 regards to the wire transfer to the Dalton School.

25 Q. I don't think -- Let me rephrase the question.

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Damle - Cross

1           When you had the initial conference with Mr. Thiam at  
2 the bank, you gave your information file to Ms. Hayes.

3 A. Correct.

4 Q. Ms. Hayes then asked you to get some more information.

5 A. Yes.

6 Q. And from what you testified earlier, when I showed you  
7 102-C -- that's the customer information file.

8 A. Oh, yes, yes.

9 Q. Okay.

10 A. Sorry.

11 Q. And there's some information where it's the American Middle  
12 Eastern Resources.

13 A. Yes.

14 Q. And I asked you about a date earlier too, September 10<sup>th</sup>?

15 A. Yes.

16 Q. Okay. And if you look on top of the customer information  
17 file, you got a date of June 8<sup>th</sup>?

18 A. 8<sup>th</sup>, yes.

19 Q. Okay. So this information is more information that  
20 Ms. Hayes needed to get from Mr. Thiam via you.

21 A. Correct. She wanted clarification of what was presented at  
22 account opening.

23 Q. Okay. Now is it my understanding at the time, when this  
24 incident then happened, that a lot of notes were taken  
25 handwritten?

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Damle - Cross

1 A. Yes.

2 Q. It wasn't all computerized.

3 A. Correct.

4 Q. Okay. So a lot of the notes that you would take, you would  
5 have to transfer into emails, transfer into, you know, computer  
6 system.

7 A. Yes.

8 Q. Okay. If you look at 102-E, which are notes.

9 A. Yes.

10 Q. Okay. Who wrote this?

11 A. The questions are from Ms. Hayes.

12 Q. Okay. And this was given to you?

13 A. From what I recall, yes.

14 Q. Okay. And what date is that?

15 A. The date printed at the top is 6/24, June 24<sup>th</sup>.

16 Q. So approximately, after you met him, approximately two,  
17 three weeks later, you needed to get more information from  
18 Ms. Hayes.

19 A. Yes.

20 Q. And the following page, you did get some more information.

21 A. Yes.

22 Q. Okay. And what did he tell you in the information, that  
23 what kind of company was he opening?

24 A. That he was opening a company involved with mining, natural  
25 resources, real estate, and tourism.

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Damle - Cross

1 Q. But he could not be part of that company.

2 A. Yes.

3 Q. Why couldn't he be part of that company?

4 A. Because he was currently the minister of mines in Guinea.

5 Q. I believe you testified earlier that he might have  
6 conflicts?

7 A. Yes.

8 Q. And do you know why he told you that?

9 A. Excuse me?

10 Q. Do you know why he told you that?

11 A. I believe as an exclamation -- as an explanation --

12 MR. DiMASE: Objection.

13 THE COURT: Sustained. Stricken.

14 Q. I'll rephrase. When he opened this account for AMER, did  
15 he tell you what was the purpose?

16 MR. DiMASE: Objection.

17 THE COURT: Sustained.

18 Q. What was the purpose of opening this account?

19 A. The purpose was, it was to be a personal account to pay his  
20 personal bills and expenses.

21 Q. Now if he was -- we discussed earlier in -- excuse me. Let  
22 me rephrase that.

23 What is a politically exposed person?

24 A. It's a person with political -- who's been appointed to a  
25 political position or a position in a cabinet, that type of

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Damle - Cross

1 thing.

2 Q. And there's another scrutiny, a level when somebody is  
3 considered a PEP.

4 A. Yeah, it's enhanced due diligence that's required.

5 Q. Okay. Now did Mr. Thiam claim that he was opening this  
6 account because of his position?

7 A. No.

8 Q. Did he need to?

9 THE COURT: I'm sorry. Did he need to what, counsel?  
10 Do you want to make a complete question.

11 MR. DELAKAS: Yes.

12 Q. Did he need to identify himself to open this account as  
13 being somebody that was politically exposed?

14 A. He would -- he needed to explain what his job was, what  
15 his -- yes, he would have had to explain that.

16 Q. And his job was being chairman of AMER.

17 A. That's what he told me.

18 Q. And that company was not open yet.

19 A. I honestly cannot recall whether it was open or not. I  
20 believe that it was -- or his explanation was that it was.  
21 That was his position.

22 Q. All right. If you look at 102-E. No. 3. It's the  
23 handwritten notes.

24 A. "The company has been established. Not affiliated with  
25 company at this time."

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Damle - Cross

1 Q. Would it be fair to say that he was not a member yet?

2 A. Yes, based on your conversation on July 19<sup>th</sup>, yes.

3 Q. Okay. So this was a July 19<sup>th</sup> conversation.

4 A. Yes.

5 Q. Okay. Now these notes, I asked you earlier if they're  
6 usually summed up and put in computer form or email form  
7 because at that time, handwritten notes were common.

8 A. Yes.

9 Q. Then I refer you to 102-F.

10 A. Yes.

11 Q. Now basically in the bottom section, where Stacey's  
12 reporting her findings --

13 A. Yes.

14 Q. -- this is all information that you got from Mr. Thiam, is  
15 that correct?

16 A. Yes.

17 Q. This information that you had communication with and a  
18 meeting on July 19<sup>th</sup>?

19 A. Yes.

20 Q. Okay. Now you mentioned some transfers.

21 A. Yes.

22 Q. Okay. Now if the account is put on alert or flagged, would  
23 you take transfers?

24 A. I believe so, but I can't speak specifically to what would  
25 be allowed or not allowed.

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Damle - Cross

1 Q. If you looked at the Government Exhibit 102-G, which is the  
2 Special Category of Client --

3 A. I don't have a hard copy, but okay, yeah.

4 Q. Okay. That was filled out by Ms. Hayes.

5 A. Yes.

6 THE COURT: So I think you've just been handed a hard  
7 copy of a document. Could you read the number.

8 THE WITNESS: Yes. Exhibit 102-G.

9 Q. Now when was that document filled out; do you remember? Or  
10 does it refresh your recollection by looking at it?

11 A. I don't remember the specific date. I know it was after  
12 our July 19<sup>th</sup> meeting, my meeting with Mr. Thiam.

13 Q. Now the information that he was minister of mines happened  
14 much earlier.

15 THE COURT: What do you mean, counsel? Can you  
16 rephrase that question. What information?

17 Q. The information of him being minister of mines was found  
18 out earlier than July 19<sup>th</sup>?

19 A. It was brought --

20 MR. DiMASE: Objection.

21 A. -- to our attention that he might be the minister of mines,  
22 and it was confirmed by Mr. Thiam on the 19<sup>th</sup>.

23 Q. Okay. Now when you fall into this category, there's a good  
24 chance, in your experience, that the account might get closed,  
25 is that correct?

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Damle - Cross

1 MR. DiMASE: Objection.

2 THE COURT: Sustained as to form.

3 Q. What happens when you're considered a special category of  
4 client?

5 A. There can be enhanced scrutiny with regards to transactions  
6 within the account.

7 Q. And ultimately if there's a danger, what happens?

8 A. I've not had the instance in my career to know on a routine  
9 basis what happens. So I can't specifically clarify as to what  
10 would constitute a closure or not, but it is -- it is given  
11 enhanced scrutiny with regards to the transactions.

12 Q. Was this account closed?

13 A. Yes.

14 Q. Okay. Do you remember when that account was closed, off  
15 the top of your head?

16 A. Not off the top of my head. I can't say the specific date.  
17 I believe it was sometime in August.

18 Q. From your recollection, were there any kind of other  
19 notifications system beyond that his account would be closed?

20 A. There was -- there was a letter sent out to him very soon  
21 after our meeting on the 19<sup>th</sup>, initial notification that his  
22 account was going to be closed. That was -- the letter was  
23 sent out before we had the meeting on the 19<sup>th</sup>, because it  
24 had been so long since the information had been requested and  
25 we had not heard back. After we had the meeting, we kept the



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Damle - Cross

1 account open on the basis of the fact he had provided further  
2 information.

3 Q. When you say further information, I'm confused, because  
4 there was information given on July 19<sup>th</sup> --

5 A. Correct.

6 Q. -- but you had some communication prior to that where some  
7 other information was given to you.

8 A. Not information with regards to the request from the bank.  
9 It was information about the wire transfer to the Dalton  
10 School.

11 Q. And that was -- I'm sorry. But when you were discussing --  
12 when I showed you Exhibit 102-E and you said June 24<sup>th</sup>, do  
13 you remember that?

14 A. Yes, yes.

15 Q. It was information that you needed to know.

16 A. Yes.

17 Q. And then that information you got before the 19<sup>th</sup>.

18 A. No. That information was given to me on the 19<sup>th</sup>. From  
19 the 24<sup>th</sup> -- June 24<sup>th</sup> it was requested. On July 19<sup>th</sup> I  
20 met with him and he provided the information.

21 Q. Okay. Understood. Now when you're an HSBC bank and your  
22 account is closed because of the SCC status --

23 MR. DiMASE: Objection.

24 THE COURT: Sustained.

25 Q. His account was closed, was it not?

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Damle - Cross

1 A. Yes, it was closed.

2 Q. And why was it closed?

3 A. I -- I can't say why. I mean, that I don't know. The  
4 decision was made over my head.

5 Q. Okay. Now when you are in that special scrutiny status, do  
6 you scrutinize accounts that are related to that account?

7 A. I don't understand the question.

8 MR. DiMASE: Objection.

9 A. Sorry.

10 Q. Mr. Thiam had an account.

11 A. Yes.

12 Q. And how long did he have the account there?

13 A. All told, about two -- little more than two months.

14 Q. Okay. But there was no relationship with that bank but  
15 there was a relationship someplace else.

16 A. A relationship with which bank? I'm sorry.

17 MR. DiMASE: Objection.

18 THE COURT: Sustained. Stricken.

19 Q. Did Mr. Thiam have an account in Hong Kong?

20 A. Yes.

21 Q. And what bank was that?

22 A. HSBC Hong Kong.

23 Q. Okay. And it's fair to say that both HSB Hong Kong and HSB  
24 New York, US, have affiliations?

25 A. Yes, within the same bank holding company.

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1 Q. Okay. Now when this scrutiny happened, did you have any  
2 information from the Hong Kong account?

3 A. Not that I know of. I mean, other than the fact that it  
4 existed, I did not have any other information about his Hong  
5 Kong account.

6 Q. Now from your experience and your knowledge, when you  
7 closed this account, does this account affect his other  
8 accounts?

9 A. I don't know.

10 Q. All right.

11 THE COURT: How much longer, counsel?

12 MR. DELAKAS: Oh, not long. Another five, ten  
13 minutes, tops.

14 THE COURT: Okay. So we'll break for lunch.

15 Ladies and gentlemen, let Ms. Rojas know -- well, no.  
16 2:00. Don't discuss the case. Thanks so much.

17 (Continued on next page)

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(Jury not present)

THE COURT: Mr. Kobre, anything else we need to discuss right now?

MR. KOBRE: No, your Honor.

THE COURT: Mr. Goldsmith?

MR. GOLDSMITH: No, your Honor.

THE COURT: Ms. Rojas mentioned that there is another French interpreter we'll be using in this trial, I understood from her, this afternoon. Should I be qualifying that interpreter now?

MR. GOLDSMITH: He is not in the courtroom at the moment, but when we have a chance, he can be qualified very quickly. He's on the interpreter's list. He's from our office.

THE COURT: Wonderful. Wonderful. Thank you.

Have a nice lunch.

THE DEPUTY CLERK: All rise.

(Luncheon recess)

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1 AFTERNOON SESSION

2 2:00 p.m.

3 (In open court; jury not present)

4 THE COURT: Counsel?

5 MR. GOLDSMITH: Yes, your Honor. A couple of issues  
6 to raise.

7 First is that in this last witness, there was some  
8 testimony about the bank's perceived conflict of interest  
9 between an account holder being the minister of mines and  
10 working in the mining sector, and I would suggest, and the  
11 government has --

12 THE COURT: I don't think it was the bank's conflict  
13 of interest; it was the defendant's conflict of interest.

14 MR. GOLDSMITH: Well, it was the bank testifying that  
15 that would have been a conflict of interest. The bank  
16 witnesses testified that would have been a conflict of  
17 interest. So I discussed it with the government. They have no  
18 objection that we think a limiting instruction to the jury at  
19 the close of the witness is appropriate for them to understand  
20 that the perceived conflict of interest from the bank is not  
21 for them to consider in whether or not the elements have been  
22 raised.

23 THE COURT: I'm sorry. The defendant's not here.

24 MR. GOLDSMITH: I just realized it too.

25 THE COURT: I'm sorry. We'll just wait until the

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1 defendant is produced.

2 So, counsel.

3 MR. GOLDSMITH: Yes.

4 THE COURT: Now that the defendant has arrived, so  
5 you're requesting what?

6 MR. GOLDSMITH: I'm requesting a limiting instruction  
7 from the Court at the close of the witness stating that the  
8 conflict of interest, as testified by bank witnesses, is not  
9 something for the jurors to speculate about in determining  
10 whether or not the government has proved the elements of the  
11 bribery and money laundering in this particular case. I don't  
12 want the jurors to be confused that somehow the bank conclusion  
13 that a conflict of interest, which is not a crime --

14 THE COURT: So I have to tell you, I really want to  
15 look at the transcript here. I'm not sure that this is a  
16 correct recitation of the testimony that was given, and I don't  
17 want to further confuse the jury about these issues. Really  
18 the last two witnesses reported, from their various vantage  
19 points, that when the defendant opened his account, he did not  
20 reveal he was the minister of mines; he instead talked about  
21 being chairman of a company involved in mining. When he was  
22 later confronted with the fact that the bank had learned he was  
23 the minister of mines, he admitted he was the minister of mines  
24 and said he had not yet taken the position of being chairman  
25 and expected to later in the fall. That's at least what I

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1 remember the testimony from the two witnesses, the bottom line  
2 of it all, would be. Who testified about it being a conflict;  
3 I'd have to check whether or not that was actually what the  
4 defendant reported saying when he was confronted in the second  
5 meeting to explain that he couldn't take the position until the  
6 fall as chairman of this mining company or consultancy in the  
7 mining industry because for him to hold it at that point of  
8 time while he was minister of mines would have represented a  
9 conflict. If I'm correctly remembering the testimony, there is  
10 no limiting instruction to be given whatsoever and it's  
11 entirely appropriate for the jury to consider it, as  
12 consciousness of guilt, among other things. Now I would have  
13 liked to have reviewed the transcript if I'd known that this  
14 issue was going to be raised, so I'm going to ask counsel to  
15 review it and I'll give you another opportunity to be heard.

16 MR. GOLDSMITH: Thank you.

17 THE COURT: Next issue.

18 MR. GOLDSMITH: Next issue is how the Court would  
19 prefer scheduling for any legal arguments, as I presume the  
20 government is nearing the end of its case, and the Court did  
21 comment on Thursday that it did not wish to take up the time of  
22 the jury. So I wanted to know how we were going to proceed.

23 THE COURT: Absolutely, counsel. And if the  
24 government rests before a break or before the moment we're  
25 taking a break, sort of in the midst of our schedule with the

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1 jury in the courtroom, you can simply stand and say, "Your  
2 Honor, I have a motion," and I'll say, "I'll hear you at the  
3 next break."

4 MR. GOLDSMITH: All right.

5 THE COURT: Anything else?

6 MR. GOLDSMITH: Finally, Mr. Momo Sakho, who is the  
7 subject of the video teleconference motion --

8 THE COURT: Yes.

9 MR. GOLDSMITH: -- was actually able to obtain a visa  
10 and is here and is prepared to testify in person. The Court  
11 had mentioned, in response to the letter addendum that I  
12 provided, that it felt that there was a portion of it that  
13 possibly reflected upon expert testimony, that being that  
14 Mr. Sakho would testify or could testify that the 85/15 percent  
15 split on the CIF deal was within the Guinean code of mining; it  
16 was appropriate. So before we got there, I would like to know  
17 if the Court felt that that was expert conclusion, although I  
18 would note that Mr. Sakho was the legal adviser to the  
19 president on mining and was well experienced in government  
20 about what would have been appropriate, especially considering  
21 the fact that the government, in its direct examinations of  
22 Mr. Camara and Mr. Sande, seemed to raise the issue of whether  
23 these CIF deals were legal.

24 THE COURT: Look, I can't put my hands right now on  
25 the document you're referring to that had my markup.



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1 Aha. I have it.

2 You're referring to the April 23<sup>rd</sup> letter. And it's  
3 for the government to raise the issue. I'm not going to object  
4 if the government doesn't object. If the government objects,  
5 then I'll hear everybody.

6 MR. GOLDSMITH: Very well.

7 THE COURT: So this was originally presented as an  
8 expert witness. That was withdrawn. Then he was offered as a  
9 fact witness. So --

10 MR. GOLDSMITH: Well, I'm just trying to raise any  
11 issues before they happen in furtherance of the Court's  
12 directives.

13 THE COURT: Thank you, thank you, Mr. Goldsmith. I  
14 appreciate that. Okay.

15 MR. DiMASE: Your Honor, of course we do intend to  
16 object to that testimony, so I'm not sure if it's something the  
17 Court wants to address before the witness is on the stand. We  
18 can address it now or we can simply make the objection at the  
19 time the testimony is proffered.

20 THE COURT: Okay. Well, the jury's been ready for ten  
21 minutes. So let me understand. When is the government  
22 resting?

23 MR. KOBRE: Right after this witness, your Honor.

24 THE COURT: Okay. And who is your first witness,  
25 Mr. Goldsmith?

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Damle - Cross

1 MR. GOLDSMITH: Mr. Sakho.

2 THE COURT: And how long will his testimony take, on  
3 direct?

4 MR. GOLDSMITH: I anticipate his direct will probably  
5 be a half hour.

6 THE COURT: Okay. So we'll take a break at the end of  
7 the -- well, we can't do that. So the government will object  
8 where it wishes to during the direct testimony, and if I don't  
9 allow the testimony, we'll take a break after the end of the  
10 direct, I'll rule on any objections, and if I permit the  
11 testimony based on those rulings, then after the break, you'll  
12 be able to complete the direct.

13 MR. GOLDSMITH: Thank you.

14 THE COURT: Good. Good. Good. And by the way, I'm  
15 sorry. Is it Mr. Delakas? I want to think that you had a  
16 lovely weekend playing soccer and -- but I hope it's nothing  
17 more serious.

18 MR. DELAKAS: No, it's not anything serious, your  
19 Honor. Thank you.

20 THE COURT: Good. Thanks.

21 Bring in the jury.

22 (Continued on next page)  
23  
24  
25

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Damle - Cross

1 (Jury present)

2 THE COURT: Ladies and gentlemen, I have a brief  
3 comment to make to you that's entirely unrelated to the  
4 witness' testimony, something I wanted to tell you earlier this  
5 morning.

6 Earlier this morning, you saw some emails on a screen  
7 and some blacked-out portions. I think it's pretty obvious to  
8 you that there was material that the parties had redacted and  
9 agreed to redact. And that's customary, entirely ordinary.  
10 Those passages from documents that are irrelevant to the record  
11 need not be received into evidence and presented to you, and  
12 you aren't to speculate whatsoever as to what material might  
13 have been redacted. That's the normal procedure in any trial.  
14 Thank you so much.

15 Counsel.

16 MR. DELAKAS: Thank you, your Honor.

17 CROSS EXAMINATION CONTINUED

18 BY MR. DELAKAS:

19 Q. Mr. Damle, welcome back.

20 A. Thank you.

21 Q. I just have a few questions.

22 When Mr. Thiam came into the bank, he offered you the  
23 IDs that we mentioned earlier.

24 A. Yes.

25 Q. And that information, you were able to produce a CIF, or

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Damle - Cross

1 the customer information form.

2 A. The IDs, I made copies of. With the answers to my  
3 questions, that's what I put into the CIF.

4 Q. Okay. And it would be fair to say that the CIF was dated  
5 June 8<sup>th</sup>; do you remember?

6 A. The information was input June 7<sup>th</sup>, but yes, the  
7 printouts were dated June 8<sup>th</sup>.

8 Q. Is it also fair to say that all the information that you  
9 obtained after your initial meeting and the last email that was  
10 on July 19<sup>th</sup> was offered by Mr. Thiam?

11 A. Yes.

12 Q. And as you know, his account was closed, is that correct?

13 A. Yes.

14 Q. Okay. Now on the CIF there are questions there about being  
15 a PEP, or politically exposed person?

16 A. Yes.

17 Q. And they were answered both no.

18 A. Yes.

19 Q. Okay. And lastly, because his account was closed, other  
20 than filing the SCC or the special category that Ms. Hayes --  
21 on July 20<sup>th</sup>, there's no other reason to articulate that the  
22 fact that this account was closed other than that.

23 MR. DiMASE: Objection.

24 THE COURT: Sustained. You may lay a foundation.

25 Q. Ms. Hayes filled out a SCC form, is that correct?

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Damle - Cross

1 A. Yes, she did.

2 Q. And that happened on July 20<sup>th</sup>.

3 A. I'm not sure what the date was.

4 Q. But because of that investigation, do you know if the  
5 account was closed based on that?

6 A. I know that the account was closed. I do not know what the  
7 reason was for the closure.

8 Q. Okay. But prior to that, there would be no other reasons  
9 to close that account.

10 MR. DiMASE: Objection.

11 THE COURT: Prior to what?

12 MR. DELAKAS: I'm sorry, your Honor?

13 THE COURT: I'm just trying to understand your  
14 question. Prior to what?

15 MR. DELAKAS: Prior to that SCC filing that Ms. Hayes  
16 did on July 20<sup>th</sup>.

17 MR. DiMASE: Objection.

18 THE COURT: Sustained.

19 BY MR. DELAKAS:

20 Q. No other documents would lead for the closure of that  
21 account, is that true?

22 MR. DiMASE: Objection.

23 THE COURT: Sustained.

24 Q. Why was the account closed?

25 A. I don't know.

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Damle - Redirect

1 MR. DELAKAS: Okay. Nothing further, your Honor.

2 THE COURT: Thank you.

3 Redirect?

4 MR. DiMASE: Very briefly, your Honor.

5 REDIRECT EXAMINATION

6 BY MR. DiMASE:

7 Q. Mr. Damle, you've testified a little bit today about SCCs  
8 and PEPs, or PEPs?

9 A. Yes.

10 Q. And again, what is a PEP?

11 A. It's what's considered a politically exposed person.

12 Q. What's an SCC?

13 A. Special category of client.

14 Q. Okay. And is a PEP sort of a subcategory of an SCC?

15 A. To my understanding, yes.

16 Q. So SCCs are a broader group of people who -- why don't you  
17 explain. What's your understanding of the relationship between  
18 the SCC category and the PEP category?

19 A. So SCC, the special category of client, is a broad  
20 terminology for clients who need to have their accounts and  
21 transactions monitored on a close, more scrutinized basis.  
22 There are different reasons that a client might fall into that  
23 basis, one of which is that they are a politically exposed  
24 person.

25 Q. Okay. And that's why you said that politically exposed

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1 person is a subcategory of SCC.

2 A. Yes.

3 Q. And can a person who is an SCC maintain an open account --

4 A. Yes.

5 Q. -- at HSBC?

6 A. Yes.

7 Q. In fact, isn't the last initial of that acronym for the  
8 word "client"?

9 A. Yes.

10 Q. And can PEPs also maintain open bank accounts at HSBC?

11 A. Yes.

12 Q. Is it fair to say that what you've testified about today is  
13 that those accounts simply get a greater level of scrutiny due  
14 to the categorization within these categories?

15 A. That is correct.

16 Q. But simply because you are a PEP or an SCC does not mean  
17 your account is automatically closed, is that right?

18 A. No.

19 MR. DELAKAS: Objection, your Honor.

20 THE COURT: Sustained. Stricken.

21 Q. And Mr. Damle, you were asked some questions about that  
22 initial meeting with Mr. Thiam during your cross.

23 A. Yes.

24 Q. When you asked Mr. Thiam what his job was during that  
25 initial meeting on June 7<sup>th</sup>, did Mr. Thiam say he was the

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1 minister of mines?

2 A. No.

3 MR. DiMASE: Nothing further.

4 THE COURT: Recross.

5 MR. DELAKAS: Nothing further, your Honor.

6 THE COURT: You may step down.

7 (Witness excused)

8 THE COURT: Next witness.

9 MR. KOBRE: The government rests, your Honor.

10 THE COURT: Mr. Goldsmith.

11 MR. GOLDSMITH: Your Honor, the defense would have a  
12 motion for the Court.

13 THE COURT: I'll take that at the next break.

14 MR. GOLDSMITH: Very well. Thank you.

15 At this time, your Honor, the defense would like to  
16 mount a case before the Court.

17 THE COURT: I'm sorry? You have a witness to call?

18 MR. GOLDSMITH: I do have a witness who is here and  
19 available. Defense would now call Momo Sakho.

20 We're retrieving him, your Honor.

21 THE COURT: Thank you. You may be seated,  
22 Mr. Goldsmith.

23 I believe we have an interpreter to serve as an  
24 interpreter between French and English today. Is that true,  
25 sir?



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Sakho - Direct

1 THE INTERPRETER: Yes, your Honor.

2 THE COURT: If you could please identify yourself for  
3 the record.

4 THE INTERPRETER: Yes. My name is Emmanuel I. Orji.

5 THE COURT: And Mr. Orji, how did you learn English?

6 THE INTERPRETER: I learn English from primary school.  
7 I'm from Nigeria originally.

8 THE COURT: From?

9 THE INTERPRETER: Nigeria.

10 THE COURT: Thank you. And is French your native  
11 language?

12 THE INTERPRETER: French is not my native language.

13 THE COURT: How did you learn French?

14 THE INTERPRETER: I started French in second grade  
15 school, high school, and I went to school in Paris, France.

16 THE COURT: And how long have you served as an  
17 interpreter between English and French?

18 THE INTERPRETER: In the United States, about ten  
19 years.

20 THE COURT: Thank you.

21 Counsel, is there any objection to finding Mr. Orji  
22 qualified to serve as an interpreter between French and  
23 English?

24 MR. DiMASE: No, your Honor.

25 MR. GOLDSMITH: No, your Honor.

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Sakho - Direct

1 THE COURT: Thank you. Please place the interpreter  
2 under oath.

3 (Interpreter sworn)

4 (Witness sworn through interpreter)

5 MR. GOLDSMITH: May I inquire? Thank you.

6 MOMO SAKHO,

7 called as a witness by the Defendant,

8 having been duly sworn, testified as follows (through the  
9 interpreter):

10 DIRECT EXAMINATION

11 BY MR. GOLDSMITH:

12 Q. Mr. Momo, where do you live?

13 A. In Guinea, Conakry.

14 Q. How long have you lived there?

15 A. I was born -- I was absent from Guinea for about 30  
16 years -- 1972 to 2002. I returned in 2002, and since then I  
17 have lived in Guinea.

18 Q. What do you do for a living?

19 A. I am an attorney.

20 Q. In Guinea?

21 A. Yes, yes, in Guinea. I'm an attorney in the Guinea bar.

22 Q. Where did you receive your law degree from?

23 A. I had a master's degree in juridical law.

24 Q. From where?

25 A. In Abidjan, Côte d'Ivoire.

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Sakho - Direct

1 Q. And when did you receive that degree?

2 A. 1998.

3 Q. In 2009 what was your occupation?

4 A. In 2009 I was adviser to the president in charge of natural  
5 resources, and development.

6 Q. For the government of Guinea?

7 THE INTERPRETER: I'm sorry?

8 Q. Were you in that capacity for the government of Guinea?

9 A. Yes.

10 Q. Was that your first job in government for Guinea?

11 A. No.

12 Q. What other experience did you have before then with the  
13 Guinean government?

14 A. I was legal adviser for ministry of geology and mines from  
15 2003 to 2008.

16 Q. In 2008 did anything happen in regards to the Guinean  
17 government?

18 A. In December of 2008, the president passed away. The  
19 president of the republic died. Then the military seized  
20 power. That was on the 22<sup>nd</sup> of December 2008.

21 Q. What, if any, changes were made to the Guinean government  
22 when the new regime took over at the end of 2008?

23 A. I did not understand.

24 Q. Could you describe the structure of the Guinean government  
25 in 2009.

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Sakho - Direct

1 A. It was a classic structure. When the military seized  
2 power, there was a shift of the military junta. His name is  
3 captain Moussa Dadis Camara.

4 Q. Did people refer to him as Dadis?

5 A. Yes, Dadis.

6 Q. Okay. Please continue to explain.

7 A. He formed his government, on January 15, 2009, naming a  
8 prime minister, Kabiné Komara. There were other members of the  
9 government. He constituted his cabinet, and on January 15<sup>th</sup>,  
10 2009, at that time I was appointed adviser in charge of  
11 resource, natural resources.

12 Q. Were there any portions of the government that President  
13 Dadis suspended when he took office?

14 A. There were republic -- republican institutions were in  
15 force, but the Constitution at that time was suspended. The  
16 function of the ministers, some of them, the previous  
17 government were arrested at the time, and subsequently they  
18 were relieved.

19 Q. Could you describe the role that President Dadis played in  
20 the government in 2009.

21 A. There was no specific or particular role. He took power.  
22 The administration was functioning in a very difficult way.

23 Q. What do you mean by that?

24 A. The president was never presiding over the Council of  
25 Ministers. He worked only at night. He doesn't work during

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Sakho - Direct

1 the day. So he did not have the aptitude to lead a government.  
2 There were young officers without any state experience. So he  
3 appointed a prime minister who was the head of government.

4 Q. Who did he appoint?

5 THE INTERPRETER: Sorry?

6 Q. Who did he appoint as the prime minister?

7 A. Mr. Kabiné Komara.

8 Q. Did President Dadis appoint other ministers at the time?

9 A. I did say that on January 15, he formed his government, and  
10 all the ministers were appointed at that time.

11 Q. Now how did -- withdrawn.

12 Please describe how President Dadis performed his job  
13 as the president at the time.

14 A. As I was just saying to you, he worked -- he worked at  
15 night.

16 Q. How would you characterize his behavior?

17 MR. DiMASE: Objection.

18 THE COURT: Sustained.

19 Q. Please describe President Dadis' behavior when he was  
20 working.

21 A. He was very angry, very -- a little bit always easily  
22 provoked. He did not entertain contrary opinions,  
23 contradictions.

24 Q. What do you mean by he did not entertain contradictions?

25 A. For example, we, the counselors, the advisers, he had

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Sakho - Direct

1 problem being able to submit to advices. In previous  
2 functions, because he was a military person, he was not used to  
3 that. We tried to guide him to explain different functions  
4 people performed -- for example, diplomatic functions, military  
5 functions, and the head of, you know, administration, civil,  
6 civil administration.

7 Q. Was that within your role as the presidential adviser?

8 A. Yeah, as an adviser. That is a college, a pool of  
9 advisers. There are advisers responsible for legal issues,  
10 others function in the political and diplomatic area, we also  
11 had advisers on economic, others responsible for natural  
12 resources and development. The totality of this group's work,  
13 they work as a team. Then their recommendations or advices on  
14 how a president should carry out his duties were made together  
15 by these various parties. But we were unable to make him  
16 understand the way we want him to work, but he functioned the  
17 way he liked. He always said that you -- that's we the  
18 advisers -- that you cannot keep him in your own -- subject to  
19 him to fulfill your own way, the way you function. This  
20 angered him so much that the second day, he arrested and  
21 detained all the advisers except myself.

22 MR. DiMASE: Objection.

23 THE COURT: Yes. I think we're traveling a little far  
24 away from your question, Mr. Goldsmith. We'll have the last  
25 portion of this answer stricken. Do you want to place another

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Sakho - Direct

1 question.

2 MR. GOLDSMITH: Sure.

3 BY MR. GOLDSMITH:

4 Q. So what would happen if an adviser like yourself advised  
5 President Dadis about something that he did not agree with?

6 MR. DiMASE: Objection.

7 THE COURT: Sustained.

8 Q. Did you ever have to advise the president on something that  
9 he disagreed with your opinion on?

10 THE COURT: That's a yes or a no.

11 A. Yes.

12 THE COURT: That's it then.

13 Q. How did he react when you advised him in that way?

14 A. Like I was just saying, he liked to work the way he feels  
15 like. He doesn't submit to advice, he doesn't submit -- he  
16 doesn't like to be put in a box. He does whatever he likes.

17 Q. Did that appear to be the same for all advisers?

18 MR. DiMASE: Objection.

19 THE COURT: Sustained.

20 Q. Did you see him behave that way toward other advisers?

21 THE COURT: That's a yes or a no.

22 A. No, I never saw him.

23 Q. Are you familiar with who Boubacar Barry is?

24 A. Yes, he was government minister.

25 Q. Do you recall what his role was in 2009?

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Sakho - Direct

1 A. He was the minister of state. He was responsible for  
2 organization, urbanization.

3 Q. What do you mean when he was a minister of state for the  
4 organization?

5 A. The structure of government at the time, there was a prime  
6 minister in the hierarchy, minister of state, ordinary  
7 ministers, and secretaries of state.

8 Q. So minister of state is higher in power than a ordinary  
9 minister.

10 A. Yes.

11 Q. Was a minister of mines a minister of the state or ordinary  
12 minister in 2009?

13 A. Ordinary minister.

14 Q. And were there particular ministers that President Dadis  
15 respected more than others?

16 MR. DiMASE: Objection.

17 THE COURT: Sustained.

18 Q. Are you aware of whether President Dadis respected the  
19 opinions of certain ministers over others?

20 MR. DiMASE: Objection.

21 THE COURT: Sustained.

22 Q. Did President Dadis treat certain ministers better than  
23 others?

24 MR. DiMASE: Objection.

25 THE COURT: Sustained.



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Sakho - Direct

1 Q. Other than being a minister of state, did Boubacar Barry  
2 have any other responsibilities in 2009?

3 A. He presided over an entire ministerial commission in charge  
4 of projects.

5 Q. Do you know why Boubacar Barry was chosen as that position?

6 MR. DiMASE: Objection.

7 THE COURT: That's a yes or a no. Overruled.

8 A. In his function as minister of state or the work he does  
9 within the commission?

10 Q. Within the commission.

11 THE COURT: Why don't you make that a complete  
12 question then.

13 MR. GOLDSMITH: Sure.

14 Q. Do you know why Boubacar Barry was placed in the position  
15 of being in charge of the individual commissions?

16 THE COURT: That's a yes or a no.

17 A. Yes, I know.

18 Q. What do you know?

19 A. He was a very personal friend of Dadis, who grew up with  
20 him from infancy, so he is a man he had confidence in.

21 Q. Within your role as the legal adviser to the minister of  
22 mines and the adviser to the president regarding resources and  
23 geology, are you familiar with how mining deals were structured  
24 with Guinea?

25 A. Concerning the functioning of government, of the

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Sakho - Direct

1 administration --

2 MR. DiMASE: Objection.

3 THE COURT: Overruled.

4 A. When I was both the adviser to the mines minister and to  
5 the presidency, we functioned as a community, as a college.  
6 That is, we have interministerial commissions, and this is  
7 where -- the decisions I made. So it's like a group making  
8 decisions and recommendations.

9 Q. Did you see projects created between the government of  
10 Guinea and private companies to develop natural resources?

11 A. Yes, of course.

12 Q. Did you see more than one such an organization?

13 A. Yes.

14 Q. Did you see projects that allowed the Guinean government to  
15 own a portion of those projects?

16 MR. DiMASE: Objection.

17 THE COURT: Overruled. Just a yes or a no.

18 THE INTERPRETER: Can you repeat the question, please.

19 MR. GOLDSMITH: Sorry. Could I have an answer?

20 THE INTERPRETER: Repeat the question.

21 MR. GOLDSMITH: Sure.

22 BY MR. GOLDSMITH:

23 Q. Did you see any deals that allowed the Guinean government  
24 to own and control a portion of the projects?

25 A. Yes, I saw such projects.

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Sakho - Direct

1 Q. And did you witness those projects that allowed the Guinean  
2 government to have a minority or small share of the projects?

3 A. It went like weak participation of the state, less  
4 participation of the state.

5 Q. So have you seen joint projects between the Guinean  
6 government and a private entity where the Guinean government  
7 would hold as little as 15 percent ownership?

8 MR. DiMASE: Objection.

9 THE COURT: Sustained.

10 (Continued on next page)

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Sakho - Direct

1 BY MR. GOLDSMITH:

2 Q. Within your role as the legal adviser to the minister of  
3 mines and to the president, were you familiar with the laws in  
4 Guinea regarding mining projects?

5 THE COURT: That's a yes or a no.

6 A. Yes.

7 Q. And within that experience, would it be improper for the  
8 Guinean government to only own 15 percent of a mining project?

9 MR. DiMASE: Objection.

10 THE COURT: Sustained.

11 Q. Would it be improper in 2009 for the Guinean government --  
12 withdrawn. Let me rephrase.

13 Under the laws that were in existence in 2009, would  
14 it have been improper for the Guinean government to only own 15  
15 percent of a mining project?

16 MR. DiMASE: Objection.

17 THE COURT: Sustained.

18 Q. Within the years that you were working as the legal adviser  
19 to both the minister of mines and to the president, what were  
20 the normal percentage ratios of ownership that you saw in the  
21 deals that were joint projects --

22 MR. DiMASE: Objection.

23 Q. -- between the government and industry of mining?

24 THE COURT: Overruled.

25 A. According to the tradition, the usage and practice of

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Sakho - Direct

1 Guinea government --

2 MR. DiMASE: Objection, your Honor.

3 THE COURT: Please don't interrupt the witness's  
4 answer.

5 A. The government of Guinea has always had a minority  
6 participation in all deals with people, with other people. The  
7 mining codes in force at the time provided for 15 percent of  
8 participation by the state of Guinea. When they got in the  
9 stage of exploring, exploration, the government of Guinea has  
10 always had very low, 15 percent, when they got in the  
11 exploration of gold, diamond and other minerals. There is no  
12 participation in the other solid minerals, like bauxite, iron,  
13 uranium; there's no right of participation by the states under  
14 the code of 1915 -- 1995.

15 Q. And that was the applicable code in 2009?

16 A. Yes.

17 Q. Did you know Mr. Thiam in 2009?

18 A. Yes. I knew him as a member of government.

19 Q. What was his role in government in 2009?

20 A. He was minister of mines, geology and hydro -- and energy,  
21 and hydraulic.

22 MR. GOLDSMITH: No further questions.

23 THE COURT: Cross-examination.

24 MR. DiMASE: Thank you, your Honor.

25 CROSS-EXAMINATION

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Sakho - Cross

1 BY MR. DiMASE:

2 Q. Good afternoon, Mr. Sakho.

3 A. Good afternoon.

4 Q. I'd like to ask you some yes-or-no questions about some of  
5 the things you testified on direct. So you began by testifying  
6 about President Dadis, is that right? You began your direct  
7 testimony speaking about President Dadis, is that correct?

8 A. Yes.

9 Q. And you indicated that he had little prior governing  
10 experience, am I right?

11 A. Yes.

12 Q. He was really a military man, correct?

13 A. Yes.

14 Q. And he wanted to bring in people who had some experience in  
15 various different fields to his government, correct?

16 A. Yes.

17 Q. Have you heard of the term "technocrat"?

18 A. Yes, I know, I heard it.

19 Q. And the idea of that term is somebody who has particular  
20 experience and background in an area, correct?

21 MR. GOLDSMITH: Objection.

22 THE COURT: Overruled.

23 A. Yes.

24 Q. And, in other words, to bring somebody with that kind of  
25 experience into government, that would be a technocrat?

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Sakho - Cross

1 A. Yes.

2 Q. And Mr. Thiam was brought on by President Dadis as the  
3 minister of mines, right?

4 A. Yes.

5 Q. And you have some familiarity with Mr. Thiam's background,  
6 right?

7 A. Yes, I -- I learn of it.

8 Q. And so back in 2009, when he was appointed, you were aware  
9 that he had experience in the area of negotiating agreements,  
10 correct?

11 A. Yes.

12 Q. He had been involved in the banking sector, correct?

13 A. Yes.

14 Q. And in that work, he also had some experience with the  
15 natural resource sector, correct?

16 A. I cannot affirm this one.

17 Q. Fair enough, but you knew -- you did know that he had  
18 experience in drafting and negotiating agreements in his prior  
19 work as, in the banking sector?

20 A. Yes.

21 Q. And in fact, President Dadis appointed Mr. Thiam to the  
22 minister of mines position in part because of his prior  
23 experience, right?

24 A. Yes.

25 Q. And I think you talked on direct examination about the

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Sakho - Cross

1 various different levels of ministers in the Guinean government  
2 at the time, correct?

3 A. Yes.

4 Q. And you mentioned people who were, quote, ministers of  
5 state, right?

6 A. Yes. One other one.

7 Q. Only one, and that was Mr. Barry, as you testified?

8 A. Yes.

9 Q. And wasn't there another category of minister called  
10 minister at the presidency?

11 A. Yes. Minister counselors, yes.

12 Q. Well, specifically a title of minister at the presidency.  
13 Are you familiar with that term?

14 A. Yes, now. Yes, now.

15 Q. Well, back in 2009, isn't it accurate that even then there  
16 were also ministers at the presidency?

17 A. Yes, that is -- yes. Yes, minister at president's, yes.

18 Q. That's a different category of minister than your ordinary  
19 minister, correct?

20 A. No. Just the -- will you let me explain a little?

21 Q. Well, let me ask you, sir, were there ministers that were  
22 not ministers at the presidency?

23 A. Yes.

24 Q. And then some were ministers at the presidency, correct?

25 A. Yes.



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Sakho - Cross

1 Q. And then you said that Minister Barry was the minister of  
2 state, right?

3 A. This is, he's connected. It was like, yes, he was also  
4 minister of state and then at the presidency.

5 Q. So Minister Barry was minister of state at the presidency?

6 A. These are ministers attached to the presidency, just like  
7 the minister of mining and natural resources, minister of  
8 economics and finance, just ministers connected to the  
9 presidency and also the minister for defense, at the time.

10 Q. OK. And you just named some of the very most important  
11 ministries in the country of Guinea, is that right?

12 MR. GOLDSMITH: Objection.

13 THE COURT: Overruled.

14 A. At the time.

15 Q. Defense, finance, mines, etc.?

16 A. Yes.

17 Q. So ministers who are ministers at the presidency hold  
18 ministry positions that are especially important, right?

19 A. Yes, just like I've said, it is attached to it for, to be  
20 able to control how the function of the department, direct  
21 control by the presidency.

22 Q. Let's talk about that. Mr. Thiam headed the ministry of  
23 mines, correct?

24 A. Yes.

25 Q. And in that position, he oversaw Guinea's mining sector,

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Sakho - Cross

1 right?

2 A. In the mineral -- in the mining sector, it is the highest,  
3 highest -- that's a lady, secretary of state responsible for  
4 energy and hydraulic. There was minister of mines, geology,  
5 hydraulic and energy. There was secretary of state, energy and  
6 hydraulic.

7 Q. Well, at the time, Mr. Thiam was the minister at the  
8 presidency in charge of mines and energy, correct, in 2009?

9 A. Yes.

10 Q. And as I said, in that position, he oversaw the mining  
11 sector in Guinea, right?

12 A. Yes.

13 Q. And he, in fact, was appointed to a commission by President  
14 Dadis in 2009, right?

15 A. Will you permit me?

16 THE COURT: Excuse me. Excuse me. If you can fairly  
17 answer a question yes or no, you must answer yes or no.

18 A. Yes, yes.

19 Q. Let me be more specific, Mr. Sakho, to avoid confusion.  
20 Mr. Thiam was appointed to a commission to negotiate with CIF,  
21 a Chinese company, in 2009, correct?

22 A. No, he was not at the head of the commission.

23 Q. Sir, my question is, isn't it true that he was appointed to  
24 serve on the commission to negotiate with CIF?

25 A. Yes.

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Sakho - Cross

1 Q. And he traveled to Singapore or to Asia in order to  
2 negotiate on behalf of the Guinean government, correct?

3 A. This I do not know.

4 Q. So you have no knowledge of his negotiations with the  
5 Chinese companies in Asia, correct?

6 A. I'm not aware.

7 Q. And you have, you are not aware of any agreement that they  
8 negotiated while -- withdrawn.

9 You were not aware of any agreement that Mr. Thiam was  
10 involved in negotiating on that trip to Asia in 2009?

11 A. I know that he took part in the negotiation with CIF, but  
12 that was in Guinea.

13 Q. You're not aware of any negotiations conducted by Mr. Thiam  
14 in Asia with CIF?

15 A. No.

16 Q. Just very briefly, you mentioned -- withdrawn.

17 And Mr. Sakho, is it fair to say you had no  
18 involvement at all in negotiating the agreements with CIF in  
19 2009?

20 A. Me, I did not play any role in the negotiations.

21 Q. And you don't really know exactly what role Mr. Thiam  
22 played in those negotiations either, correct?

23 A. No.

24 MR. DiMASE: No further questions.

25 THE COURT: Redirect.

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Sakho - Redirect

1 MR. GOLDSMITH: Brief, your Honor. Thank you.

2 REDIRECT EXAMINATION

3 BY MR. GOLDSMITH:

4 Q. Do you remember being asked some questions by the  
5 government attorneys, on cross-examination now, about the  
6 differences between state and presidential ministers?

7 A. Yes.

8 Q. Could you explain what the difference is?

9 A. Ministers at presidency are always responsible for specific  
10 functions. They have connection to the presidency. That is  
11 done because of a simple objective; that is, the force of that  
12 is direct control and supervision by the president. That is  
13 why the minister, ministry for economics and finance directly  
14 linked to the presidency; the natural resources and mines also  
15 were linked to the presidency; defense issues, the minister of  
16 defense was also directly linked to the presidency.

17 Q. When you say directly linked to the presidency, could you  
18 explain that?

19 A. Administrative and directive, what that meant was that the  
20 president could directly instruct the ministers to do what he  
21 wanted done. It depends that he is directly responsible. For  
22 example, the prime minister, in this, in this, in that  
23 circumstance, the instructions of the president has more effect  
24 on them -- that is, this group of ministers who are attached to  
25 him -- than instructions from the prime minister.

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Sakho - Redirect

1 Q. Was that the case in 2009?

2 A. Yes.

3 Q. Now, you also had questions on cross-examination about  
4 whether the defendant oversaw mines as the minister of mines?

5 A. Yes.

6 Q. Who had more control over mining and geology, the minister  
7 of mines or the president, in 2009?

8 A. The minister is in charge of his department, with what  
9 happens, what concerns ongoing management, administration. But  
10 if the president has some specific interest, he gives  
11 instruction. Since the ministry or ministers are directly  
12 related to the president, he gives direct instruction without  
13 going through, passing through the prime minister.

14 Q. Now, within your role -- withdrawn.

15 You were asked several questions about specific  
16 committees regarding mining and CIF in 2009. Do you recall who  
17 was in charge of the CIF committee in 2009?

18 A. It was, it was the minister of state, Boubacar Barry, who  
19 was also at the head of the ministry, the commission.

20 Q. You were asked a number of questions on cross about the  
21 hierarchy of ministers in 2009.

22 A. Yes.

23 Q. In 2009, who, if anyone, was more powerful than Minister  
24 Barry?

25 MR. DiMASE: Objection.

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Sakho - Redirect

1 THE COURT: Overruled.

2 A. The minister of defense, the general, General Konaté, the  
3 military. He's a personal friend, just like Barry, who was  
4 also a personal friend of the president. He was very  
5 influential, also as the minister of defense and the  
6 commission.

7 MR. GOLDSMITH: I have no further questions.

8 MR. DiMASE: Nothing further, your Honor.

9 THE COURT: You may step down.

10 (Witness excused)

11 THE COURT: Next witness.

12 MR. GOLDSMITH: Your Honor, at this time we call the  
13 defendant, Mahmoud Thiam.

14 THE COURT: You know what? Ladies and gentlemen,  
15 we're going to take a break. We're going to take our afternoon  
16 recess. Would everyone please be seated. Thank you.

17 Ladies and gentlemen, let Ms. Rojas know when you're  
18 ready to resume.

19 (Continued on next page)

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(In open court; jury not present)

THE COURT: Mr. Goldsmith, did you have a motion?

MR. GOLDSMITH: Yes, your Honor. I would move, pursuant to Rule 29, for the indictment to be dismissed against Mahmoud Thiam as the government failed, even in the light most favorable to the government, to raise evidence before the jury that would have proven, beyond a reasonable doubt to any reasonable juror, all of the necessary elements of the offense.

In this particular case, the government has raised evidence of certain payments that were made to a Hong Kong bank account that he established in 2009. The government has established that the defendant was the minister of mines who was engaged in some degree in negotiating a deal with Chinese conglomerates known as CIF and Sonangol. However, the defendant is charged in this case, in the United States of America, with laundering the proceeds of a bribe, which means that the foundational elements of those offenses of the two counts in the indictment require the government to prove beyond a reasonable doubt that there was a bribe.

The government did not elicit any testimony from a fact witness that could have attested as to whether or not, in fact, those payments were bribes. Given that significant vacuum of evidence, the evidence and testimony that was presented at trial is, at best, circumstantial but most likely is only speculative, and under those standards, even a

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1 reasonable juror would not be permitted to speculate as to the  
2 purpose of those payments, and accordingly, the government has  
3 failed to meet the elements necessary to prove both Counts One  
4 and Two.

5 THE COURT: Thank you. Your motion is denied.

6 Are there any other issues that we should raise during  
7 the break? Does the government have any issue?

8 MR. KOBRE: Your Honor, I think we do have one. One  
9 is just one that we discussed before trial, which is with  
10 respect to the benefits of the deal with CIF, and I think the  
11 Court had resolved that issue with respect to other potential  
12 witness testimony but left the possibility that there might be  
13 a little bit more leeway granted to defendant, and I think it  
14 would be helpful to get guidance from the Court. I think if I  
15 understood the discussion earlier, testimony regarding the  
16 actual benefits that accrued to the Republic of Guinea after  
17 the deal was entered into, I think it was agreed, would not be,  
18 the defendant would not be permitted to testify about that. I  
19 think the one issue that was sort of left unresolved was  
20 whether the defendant could testify about what he believed the  
21 benefits would be to the Republic of Guinea.

22 THE COURT: I don't think I gave any ruling with  
23 respect to the scope of the defendant's testimony at all on any  
24 point. I reserved that explicitly. I did draw lines with  
25 respect to other witness testimony, so that's one issue to



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1 address.

2 Mr. Goldsmith, did you have an issue?

3 MR. GOLDSMITH: The government provided a letter to  
4 the Court, dated April 5 of 2017, which was the government's de  
5 facto 404(b) application. It does not include any particulars  
6 other than that it may seek to introduce evidence "regarding a  
7 scheme to grant mining license and permits to a company Thiam  
8 had a an interest in named Almara Group Ltd.

9 THE COURT: Do I have a copy of that, or is that a  
10 letter that was submitted to defense counsel?

11 MR. GOLDSMITH: This was -- I'm sorry. You're  
12 correct, I believe. This was submitted directly to me by  
13 email. This was not ECF; I thought it was. My mistake.

14 THE COURT: That's OK. I just don't know. It's not  
15 sounding very familiar.

16 MR. GOLDSMITH: Right.

17 THE COURT: Your application with respect to the  
18 404(b) letter?

19 MR. GOLDSMITH: Without having any further information  
20 as to what the government intends to seek to introduce, I would  
21 seek that it be denied in its entirety.

22 THE COURT: I don't have the letter. Are you asking  
23 something with respect to the scope of the cross of your  
24 witness or with respect to a rebuttal case?

25 MR. GOLDSMITH: Well, I think, frankly, we should

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1 probably have a little more information from the government  
2 before I make a decision as to any application on the 404(b).

3 THE COURT: Have you asked the government for more  
4 information?

5 MR. GOLDSMITH: No, I have not the time.

6 THE COURT: I'm sorry?

7 MR. GOLDSMITH: No, I have not had the occasion.

8 THE COURT: OK. Well, I don't have an application on  
9 that then.

10 MR. GOLDSMITH: Right.

11 THE COURT: Great. Any other issue before I address  
12 the benefits of the deal?

13 MR. GOLDSMITH: No other issues.

14 THE COURT: OK. Good. Let's return to the one issue  
15 the government has identified, and that is the scope of the  
16 defendant's testimony with respect to the benefits that Guinea  
17 was expected to or did receive from the CIF shareholders  
18 agreement. Let me ask you first, Mr. Goldsmith, are you  
19 planning to inquire of your client on direct examination, in  
20 his judgment, after the fact, whether Guinea did or did not  
21 benefit from the shareholders agreement?

22 MR. GOLDSMITH: I'm not going to address any questions  
23 about after the fact.

24 THE COURT: OK. Is the government objecting to the  
25 defendant testifying on his direct examination to his beliefs

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1 and expectations as to how Guinea would benefit from entering  
2 into the shareholder agreement?

3 MR. KOBRE: Your Honor, not with respect to his  
4 beliefs at the time.

5 THE COURT: That's right. OK. As far as I understand  
6 it, there is no dispute here. I'll let counsel just pin that  
7 down during our break, but it sounds like the government's not  
8 objecting to any testimony from the defendant as to his  
9 mind-set in 2009, at the time of the negotiations, up until the  
10 time that the shareholder agreement was signed or approved and  
11 executed as to the benefits that Guinea would achieve through  
12 execution of the shareholder agreement.

13 Good. Thank you. We'll take a break. Ms. Rojas will  
14 let us know when you're ready to resume.

15 MR. DiMASE: Your Honor, I do have one other, very  
16 brief issue.

17 THE COURT: Yes.

18 MR. DiMASE: I take it the Court has already  
19 essentially ruled on this, but the government would renew its  
20 objection to testimony about the dictates of the Guinean mining  
21 code, as testified about through Mr. Sakho. It seems really  
22 clear that that was more in the nature of expert testimony and  
23 not lay witness testimony. There was much discussion prior to  
24 the outset of the trial regarding whether Mr. Sakho would be  
25 qualified as an expert, whether his testimony was being offered

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1 as expert testimony. Mr. Goldsmith clearly stated, prior to  
2 the beginning of the case, that he was withdrawing any expert  
3 notice and not seeking to call Mr. Sakho as an expert, and I  
4 think even though the question that was posed to Mr. Sakho,  
5 which ultimately led to an answer about percentages and Guinean  
6 mining law, may not have been intended to elicit that response,  
7 it nonetheless did, and I think it's fair to characterize that  
8 testimony as really expert testimony, impermissible given the  
9 lack of notice and the decision by Mr. Goldsmith before the  
10 beginning of this trial to withdraw any intention of calling an  
11 expert witness.

12 THE COURT: I think you're right, counsel, that the  
13 question that Mr. Goldsmith put to the witness did not actually  
14 necessarily call for the answer, the extended answer, that was  
15 given. That said, I'm denying your motion to strike.

16 Now, the 15 percent number, to the extent it's a  
17 description of Guinean law, can't come through this witness or  
18 any other witness, whether there was expert notice or not.  
19 It's for the Court to instruct as a matter of law what Guinean  
20 law requires, and if counsel wish to have me include something  
21 in the charge with respect to that, that's fine with me. Come  
22 up with some proposed language, discuss it with each other.  
23 But in context, I think the testimony was actually pretty  
24 inscrutable. It wasn't clear to me whether that witness was  
25 saying there was a 15 percent minimum required by the law that

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1 no agreement could go below, or whatever, and in the context of  
2 the whole answer, I don't think it's necessary for me to strike  
3 it. But if you want a limiting instruction as part of the jury  
4 charge, I'll be happy to consider it. Just draft it and show  
5 it to your adversary.

6 Thank you. Take a brief recess.

7 (Recess)

8 MR. GOLDSMITH: Your Honor, could we have Mr. Thiam  
9 take the stand, or do we need to wait for the government?

10 THE COURT: Yes. We're certainly not going to bring  
11 in the jury until we've all reassembled.

12 Please be seated. Bring in the jury.

13 MR. GOLDSMITH: Your Honor, should the defendant take  
14 the stand first or after?

15 THE COURT: Afterwards.

16 (Continued on next page)

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Thiam - Direct

1 (In open court; jury present)

2 THE COURT: Mr. Goldsmith, again, I believe you were  
3 about to call the witness.

4 MR. GOLDSMITH: Yes, your Honor. We were about to  
5 call the defendant, Mahmoud Thiam, to the stand.

6 MAHMOUD THIAM,

7 the defendant herein, called as a witness on his own

8 behalf, having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. GOLDSMITH:

11 Q. Mr. Thiam, where do you live?

12 A. I live 170 East End Avenue, New York.

13 Q. Could you bring that microphone just a little bit closer to  
14 you. Very good.

15 How long have you lived in New York?

16 A. New York City, since 1992.

17 Q. Where did you live prior to that?

18 A. I lived in Ithaca, New York, upstate.

19 Q. Are you a United States citizen?

20 A. Yes, I am.

21 Q. Where were you born?

22 A. I was born in Guinea, Conakry.

23 Q. How long did you live in Guinea after your birth?

24 A. I lived in Guinea for the first five years of my life.

25 Q. Where did you go at the age of five?

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Thiam - Direct

1 A. Age five I went into exile, first in Ethiopia and then in  
2 France and Belgium, and I lived in a few countries in between.

3 Q. Why were you in exile?

4 A. I was in exile, like about 2 million other Guinean  
5 citizens, because there was a fairly brutal Communist  
6 dictatorship at the time, and they killed most of my family and  
7 I had to be smuggled out of the country to save my life.

8 Q. When did you return to -- withdrawn.

9 When did you first come to the United States?

10 A. 1987.

11 Q. How old were you?

12 A. I was in my late teen, maybe 20.

13 Q. What did you do when you first came to the United States?

14 A. I first went to the Washington, D.C. area, where I took  
15 classes of English as a foreign language to improve my English  
16 before I could start college-level classes.

17 Q. What did you do to support yourself during that time?

18 A. Well, at that time the student visas did not allow a holder  
19 of a student visa to hold a job, so I relied on my family, my  
20 uncle who raised me, to provide me with financial help in the  
21 beginning.

22 Q. Where did you live in 1987?

23 A. In 1987, I lived at a relative's house in, in part of  
24 Maryland, in the suburbs of Washington, D.C.

25 Q. What, if anything, did you do after you completed those

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Thiam - Direct

1 English-as-a-second-language courses?

2 A. I applied for a transfer to Cornell University.

3 Q. Did there come a time when you attended Cornell?

4 A. Yes. I transferred to Cornell, I believe, in 1989 or late  
5 '88.

6 Q. Did you graduate from Cornell?

7 A. Yes, I did.

8 Q. What did you do after you graduated Cornell?

9 A. After Cornell, I spent one year in what was then called the  
10 practical training program, which allows you one, one-year visa  
11 to get experience with a company in the U.S. before you have to  
12 leave, and I worked for a company called Pitney Bowes.

13 Q. What did you do for Pitney Bowes that year?

14 A. I trailed the senior copier salesman through New York,  
15 knocking door to door on offices and trying to sell copiers and  
16 fax machines to people.

17 Q. What, if anything, did you do after that year with Pitney  
18 Bowes?

19 A. After my year with Pitney Bowes, I joined a company in New  
20 York called Trillium International, specialized in selling U.S.  
21 agricultural products abroad under a program by the U.S.  
22 government that was geared to help compete with the European  
23 Union subsidy programs.

24 Q. What did you do while you were working at Trillium?

25 A. Mostly traveled. Traveled abroad to countries where I had



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Thiam - Direct

1 contacts and tried to find clients for Trillium.

2 Q. What do you mean you had contacts within your role at  
3 Trillium?

4 A. Well, because of my international background and upbringing  
5 and my language skills, I grew up in several countries, I went  
6 to school in many places, I'd made friends, and I had contacts  
7 in a few countries where they were interested in doing  
8 business, basically.

9 Q. How many languages did you speak at that point of your  
10 life?

11 A. I had lost a few by then, so I was down to three, I  
12 believe.

13 Q. Which languages?

14 A. I spoke French, English by then. Fula is my native  
15 language, and I had some solid Spanish.

16 Q. And what specifically did you do within that role for the  
17 company?

18 A. Well, they sent me to countries where, that were known to  
19 be big importers of agriculture commodities. They sent me to  
20 meet people I knew or people who I could be introduced to by  
21 people I knew who were the known importers of those  
22 commodities, and my role was to try to convince them to buy  
23 American commodities as opposed to the European ones.

24 Q. How long did you work there?

25 A. I worked there a year and a half.

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Thiam - Direct

1 Q. And where did you go after you left Trillium?

2 A. I got a job at Merrill Lynch, in New York.

3 Q. What was your first role and responsibility at Merrill  
4 Lynch?

5 A. It was almost the same. Merrill Lynch was --

6 Q. Let me back up a little bit. What was the role you got  
7 hired at at Merrill Lynch?

8 A. I was -- the official title was that of a financial  
9 consultant and relationship manager, and I was hired by the  
10 international division of the private client group, and the  
11 goal was to grow Merrill's international business by going out  
12 and finding international, an international clientele for them  
13 to advise on their finances.

14 Q. How long did you work at Merrill Lynch?

15 A. Ten years.

16 Q. And by the time that you left Merrill Lynch, what were the  
17 roles and responsibilities that you had?

18 A. Well, they were varied. I, by then, was a senior vice  
19 president. I had built a team in the division that had  
20 originally hired me that were still under my responsibility and  
21 was working fairly autonomously, and I was doing more  
22 investment banking work, advisory to governments and large  
23 corporations abroad.

24 Q. Did there come a time when you left Merrill Lynch?

25 A. Yes. In August of 2004, we accepted an offer by UBS to buy

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Thiam - Direct

1 my team, so I sold -- I effectively sold my team to UBS in  
2 August of 2004.

3 Q. Well, did you sell it, or did Merrill Lynch sell it?

4 A. I sold. It's my team. I sold -- basically, in the  
5 parlance of the industry, basically sell your business, they  
6 bought our ability to generate revenue, so they paid us to  
7 move.

8 Q. How long did you work with UBS?

9 A. Four years, from 2004 to 2 -- to late 2008.

10 Q. By the time that you had left Merrill Lynch, approximately  
11 how much were you earning every year through Merrill Lynch?

12 A. It varies, because it was commission based, but at Merrill  
13 itself, I had, I think, a few years close to a million. It  
14 really varies; good years, bad years.

15 Q. Now, you said that you had left UBS around 2008. Is that  
16 correct?

17 A. Yes.

18 Q. Where did you go after UBS?

19 A. Well, I accepted an offer to, to go back to Guinea to serve  
20 as the minister of mines by the new government of Guinea.

21 Q. When you were working at UBS -- well, let me clarify. Just  
22 before you left UBS --

23 A. Yes.

24 Q. -- approximately how much were you earning a year?

25 A. From my revenue at UBS, it's hard to say. I -- there again

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Thiam - Direct

1 we had good and bad years. Those were bad times, but because  
2 of my signing bonus from my move from UBS, I still had a few  
3 substantial checks, I think, one of a million and a few of half  
4 a million dollars to, to make up for what I was not making from  
5 the actual business. So I would say not far from the million.

6 (Continued on next page)

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Thiam - Direct

1 BY MR. GOLDSMITH:

2 Q. So when you say which you were not actually making from the  
3 business, is there a reason why you were making less?

4 A. Yes. We -- we were really at the height of the financial  
5 crisis. The world was technically coming to an end from an  
6 economic standpoint. And revenues dropped. Basically, the  
7 financial industry was in disarray, and people who were salary  
8 based were getting fired and people who were commission based  
9 like me, or performance based, were making much, much less.

10 Q. Did you have any other sources of income while you were  
11 working at UBS?

12 A. Yes. I had the private ventures that I was involved with,  
13 with a few partners outside of the bank.

14 Q. Could you describe the private ventures that you were  
15 involved in.

16 A. They were of various natures, but the majority of them were  
17 transactions that the banks would not or could not perform, and  
18 if I had the means to have them done or to help the client who  
19 wanted the transaction done elsewhere, we had it done  
20 elsewhere, basically, and I earned money like that.

21 Q. What do you mean the bank couldn't or would not get  
22 involved?

23 A. Well, the bank has limited resources. There are  
24 transactions that they take on, there are transactions they  
25 don't want to take on. There are regions they want to effect

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Thiam - Direct

1 less resources to than others, so if it's a transaction that  
2 the bank, for any reason, doesn't want to do and I have,  
3 through my contacts, the ability to do it elsewhere, I was free  
4 to do it.

5 Q. And how many different partners did you have on these  
6 ventures?

7 A. There again, it varies. I had, I'd say, two or three main  
8 partners with whom I did most things, but then others came into  
9 place because most transactions were with different countries  
10 or different industries.

11 Q. And who were those two or three main partners that you had?

12 A. Main one was, at the time, a gentleman called Baker  
13 Al-Sadi, based in London.

14 Q. How did you know Baker?

15 A. I had met him I think in the early 2000s through a  
16 childhood friend of his who was one of my colleagues at -- at  
17 Merrill Lynch. They had grown up together, and he introduced  
18 him to me because he had one such transaction that the bank  
19 could not do and asked me if I could help find investors for a  
20 transaction he was promoting. And from then on we developed a  
21 friendship and -- and a partnership.

22 Q. So getting back to the time that you left UBS, you  
23 testified a moment ago that you accepted a position with the  
24 Guinean government. Could you please describe how that came  
25 about.

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Thiam - Direct

1 A. Well, what happened is that I would have to go back in  
2 history a little bit to put it in perspective, if that's okay.

3 Q. Sure.

4 A. It's -- as I explained earlier, we -- I lived in exile  
5 because of the first 26 years of Guinea's history were under a  
6 very brutal communist dictatorship. That dictator died in 1984  
7 and he was replaced basically by who was his presidential  
8 guard. The soldiers took over from him after he died, started  
9 another type of dictatorship, which lasted another 25 or 26  
10 years. That one was less brutal.

11 Q. Excuse me. Was that the ruler who died right before the  
12 junta-led coup?

13 A. Yes. That's Lansana Conté regime started in 1984, and the  
14 only difference between the two dictatorships is that one was a  
15 brutal killer and we could not go back to Guinea or we would  
16 get killed; this one did not kill but was no less a dictator.  
17 Did not hold elections for a long time and then held fake  
18 elections, and basically stayed in power for another 26 years.  
19 And he died in December 2008. He had been sick for about three  
20 years, and everyone had been predicting his death for the three  
21 years, but he was not dying. And finally, last week of  
22 December 2008, he died. And the government or the country had  
23 turned into basically a drug cartel, the whole country.

24 Q. So how did this develop into your being asked to join the  
25 Guinean government?

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Thiam - Direct

1 A. At his death, a group of young soldiers took over. They  
2 retired the senior military officers and all of his family  
3 members who thought they were taking over from him and  
4 continuing in his -- in his footsteps, and those young soldiers  
5 surprised everybody overnight, took over, retired all of them,  
6 and declared that they would run the country for two years,  
7 clean out the drug trade, clear corruption, and organize  
8 elections within two years, leading to an elected civilian  
9 government. They named a technocrat as the prime minister, a  
10 gentleman by the name of Kabiné Komara, and asked him to form  
11 the civilian half of the new government while the military  
12 ruling committee would appoint the military half of it, and the  
13 military ruling committee would basically oversee the civilian  
14 government of Mr. Komara. Mr. Komara --

15 Q. What do you mean when you say the military would oversee  
16 the civilian government?

17 A. They created a council, I believe it was mentioned before,  
18 called the CNDD, which was made of I would say about 30 senior  
19 military officers. The group that effectively seized power  
20 collectively. And that body was actually the ruling body in  
21 the country. They over -- they oversaw the entire government.  
22 So they're -- the president was the president of the CNDD and  
23 he ruled over a military committee that oversaw the government.  
24 So the government had the boss, basically.

25 Q. And the president of the new government, who was that?



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Thiam - Direct

1 A. That was Moussa Dadis Camara. They called him Dadis.

2 Q. And describe his position related to the military aspect of  
3 the government.

4 A. Well, he, I would say, was one of the three top leaders of  
5 the -- of the coup that ensued. He, you know -- heated  
6 debates, from what we were told by the soldiers themselves  
7 after the coup, deciding who would take over. He prevailed.  
8 There was a democratic decision-making process inside the coup  
9 apparently, and -- and he prevailed and was named president.  
10 The most powerful man in the military at the time became his  
11 number two and was named minister of defense.

12 Q. Who was that?

13 A. That was then -- he was Colonel Sékouba Konaté. He's now  
14 General Sékouba Konaté.

15 Q. And did there come a point in time where you were  
16 reached -- or withdrawn.

17 Did there come a point in time where someone reached  
18 out to you to join the Guinean government?

19 A. Yes. Within I would say -- when he found out --

20 THE COURT: I'm sorry. That was just a yes.

21 A. Yes. Sorry. Yes.

22 Q. When was that?

23 A. That was, I would say, about a week or more after they took  
24 over, I think Mr. Komara was contacted and told that he was on  
25 a short list of potential prime ministers.

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Thiam - Direct

1 Q. When you say Komara --

2 A. Kabiné Komara, the person who then became prime minister.

3 He was contacted by military junta and was asked if he would

4 consider becoming prime minister. When he accepted, he called

5 me and asked me if I would, as a banker, agree to advise him on

6 how to restructure the mining sector.

7 Q. Had you met Mr. Komara before?

8 A. Yes, I -- we were acquainted. I met him a few times and we

9 knew each other and we knew of each other.

10 Q. What were the circumstances that you knew each other and

11 knew of each other?

12 A. Mr. Komara was -- had been in and out of the Guinean

13 government for many years. I -- I first met Mr. Komara when I

14 was a student, when I was scheduled to move to Cornell from

15 Washington, DC, and I could not pay for -- for my tuition at --

16 at Cornell because our -- our property that had been seized by

17 the first dictatorship confiscated, was not returned to us when

18 they returned property to everyone else, and therefore, the

19 rental income I was counting on to pay my studies was not

20 available to me because the Guinean government had not returned

21 our -- our property. So I went to Guinea and asked Mr. Komara

22 as ministry at the time to put me on the list of scholarships

23 that he had just obtained to compensate for me not having my

24 property returned to me.

25 Q. And what happened?

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Thiam - Direct

1 A. Well, they agreed to -- to give me a scholarship. They had  
2 been granted a number of scholarships, so they put me on the  
3 list, considering that it was their fault that I could not  
4 collect rent for my -- from my property. And I came to -- I  
5 came back, moved to Cornell. They paid the first year, and  
6 then there was a change of minister, and the new minister  
7 struck my name off the list immediately because he wanted to  
8 give that scholarship to his girlfriend. So I found myself  
9 penniless at Cornell.

10 Q. And how were you able to continue your education?

11 A. Family, family and friends, but mostly family that came  
12 together. My uncle who raised me, my grandfather had some  
13 cattle and land that he had to sell and things like that, and  
14 they -- they kept me going for a few years.

15 Q. When was the next time that you met soon-to-be-some-day  
16 Prime Minister Komara?

17 A. I met him I think in the late '90s. I was then a banker,  
18 and at Merrill Lynch we had -- we obtained two mandates in  
19 Guinea, the first one in 1997 to work with the Central Bank and  
20 help them restructure and manage their gold reserves. And then  
21 later on, I believe in '98, with the ministry of mines, we had  
22 the mandate to help the ministry of mines restructure the iron  
23 ore sector, so we interacted then and -- and I believe he had  
24 heard of things we had done in mining, advising other countries  
25 successfully and was interested in what we could do for him.

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Thiam - Direct

1 Q. Was that your only experience with mining related to your  
2 work at Merrill Lynch?

3 A. It was my main experience. I evolved at Merrill through  
4 different divisions and did different things, and there was a  
5 time where mining and commodities in general was very active  
6 around the world, so Merrill was very active in it, so I got  
7 involved in that. I helped Merrill pursue mandates in mining  
8 countries around the world. We -- I helped Merrill obtain a  
9 lot of mandates, and we basically made a name for ourselves in  
10 the mining industry, as bankers, and so they knew what we had  
11 done for some other countries and how we had helped some other  
12 countries.

13 Q. Okay. So now let's fast forward again to the soon-to-be  
14 Prime Minister Komara contacting you about the new Guinean  
15 government.

16 A. Yes.

17 Q. Describe that for us.

18 A. He asked me -- I'm sorry. He asked me if I could -- if I  
19 would agree to advise them as a -- as an adviser, as a  
20 consultant. I said yes, under a few conditions.

21 Q. What were they?

22 A. The conditions -- there was really one main condition was  
23 that he appoints minister of mines who knew how the financial  
24 world works, who was not just a miner from a technical  
25 standpoint, not a geologist, but who knew how the world of

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1 business interacted with the world of mining, so that our  
2 advice would not be wasted, because from experience, we had  
3 problems with other governments where people did not understand  
4 how the financial world related to the mining world and you  
5 would spend weeks or months waiting for information that you  
6 needed to do your work. It frustrated you until the mandate  
7 went unsuccessful and it was a failure. So I wanted to avoid  
8 that.

9 Q. And just to be clear, what kind of a position were you  
10 discussing with Prime Minister Komara at that point?

11 A. As a -- at Merrill or my team at Merrill advising the  
12 Guinean government on how to restructure the mining sector.

13 Q. Okay. What or how did the prime minister respond?

14 A. He asked me to recommend three names of people whom I  
15 thought would be good ministers so that he could -- he could  
16 recommend them to the -- to his boss, the president, and see if  
17 he could have them appointed in order for -- for my condition  
18 to be met.

19 Q. And did you do that?

20 A. Yes, I asked around, because I did not know the people  
21 either so I asked around, I was given three names, which I  
22 forwarded to him. He took the three names to -- to the  
23 soldiers, to the president, and they told him basically no,  
24 they told him that if he wanted his plan to work, he had to  
25 convince me to come as minister, not as an adviser.

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1 Q. How do you know that?

2 A. Because he called me back asking me to come as a minister  
3 and not as an adviser because his bosses would not do it any  
4 other way.

5 Q. And how did you feel about that?

6 A. Well, I wasn't too excited. I told him no, I told him it  
7 wasn't a good time for me, I could not do it at the time.

8 Q. Why would that have been different than being the adviser?

9 A. Because the adviser, I would still be based in New York  
10 with my family, working at the bank, and Guinea would be one of  
11 a few clients we have. And either myself, members of my team,  
12 or other members of -- sorry, it was UBS by then, not  
13 Merrill -- or other members of -- of UBS would travel to Guinea  
14 periodically to conduct the mission.

15 Q. Okay. And what was your financial condition at that time  
16 versus what it had been in the previous years?

17 A. As far as my revenue from my primary job, which is banking,  
18 it was fairly disastrous. As I said, the world had collapsed,  
19 from our standpoint, at least, as bankers, so the revenue,  
20 revenues had dropped. Any savings or investments anyone had,  
21 not only bankers but I think around the world, had melted, all  
22 the way to our 401(k)s, and everyone was suffering.

23 Q. So what happened next in your discussions regarding a  
24 position with the Guinean government?

25 A. Well, I told him I could not, it wasn't a good time for me,

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1 that it wasn't a good time for me personally from a family  
2 standpoint, I had young children in school that I did not want  
3 to leave here, I had a family that I had to care for, and my  
4 financial situation was unstable, as I said. And also, I had  
5 clients at the bank who were suffering a lot. They were at the  
6 bank because they trusted me and followed me to -- from Merrill  
7 Lynch to UBS. And I did not feel comfortable abandoning them.  
8 I had a team at UBS I did not want to abandon either. So I  
9 told him it was a bad time.

10 Q. And how did he react?

11 A. Well, he persisted. He did not take no for an answer. He  
12 insisted. He lobbied, he called people that were close to me  
13 and he thought had influence on me, asked them to intervene. I  
14 was the subject of some friendly pressure for a few days. And  
15 ultimately I -- people were putting moral pressure on me: It's  
16 your country; you should come help; you owe it to your country.  
17 And ultimately I told him, okay, I'll ask my wife. If she says  
18 yes, I'll come; if she says no, I won't. And I was fairly  
19 confident she would say no.

20 Q. And what happened?

21 A. She said yes. So I went.

22 Q. And what happened next?

23 A. Well, it was a -- it was like being thrown into a -- into a  
24 washing machine, basically. It's -- I had my apprehensions.  
25 Besides my personal concerns that I just mentioned, it was

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1 military regime, after all. Those were people we've -- had  
2 used them before. The whole world was enthusiastic because  
3 they were -- they had ended 50 some years of dictatorship.  
4 They came with very high declarations about what they wanted to  
5 do and the population was elated. But still, they were  
6 soldiers, and no one knew where it would lead, so I was a bit  
7 nervous. I had -- have a brutal family history in that  
8 country. My father, uncle, most of their friends were tortured  
9 and killed in that country, and the country is known to be rife  
10 with ethnical -- ethnic tensions. Usually one ethnic group  
11 controls the Army. And so that's -- those were the guys who  
12 were in power and those are the guys who were in power when my  
13 father was killed, so I had my -- my apprehensions.

14 Q. Did you go?

15 A. I did.

16 Q. Approximately when did you go to Guinea?

17 A. I believe I arrived in Guinea around the -- the beginning  
18 of the second week of January. I first went to Europe to meet  
19 with Baker and some of my business partners.

20 Q. Why?

21 A. Because my business with them was the only source of income  
22 I had, or savings I had. I wanted to make sure that my family  
23 was maintained while I was away and that I was maintained while  
24 I was away because I went in having decided not to take a  
25 salary, not to take government housing, not to get housed by



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1 the government, to pay for my travel and my hotels myself, and  
2 I wanted to make sure that Baker would make those funds  
3 available as needed, so that I could survive and my family  
4 could survive.

5 Q. Let me stop you. You agreed not to accept a salary?

6 A. Yes. I decided; I didn't agree. I wasn't asked. I  
7 decided not to take a salary.

8 Q. And you decided not to accept any government room and  
9 board.

10 A. Yes.

11 Q. Why?

12 A. Because I went, first of all, in the spirit of helping. It  
13 was reportedly a poor country and it was a poor country. I  
14 think it was mentioned before, it didn't become poor overnight.  
15 It had been poor for the 50 some years of its independence, and  
16 it was getting poorer, and this government came in saying, we  
17 want to clean up and -- and return power, and I decided I  
18 was -- that was one of my contributions. That was the first  
19 reason.

20 The second reason was a little more calculated. The  
21 second reason was that I knew how internal politics worked in  
22 Guinea and in Africa in general, and you want to be as remote  
23 from points of pressure as possible.

24 Q. What do you mean by that?

25 A. If people feel that you need your government salary, your

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1 government income, your trappings of power, etc., to survive,  
2 they tend to try to put pressure on you, and I wanted to go in  
3 there giving the impression that I needed no one or needed  
4 nothing from anyone, I was self-sufficient.

5 Q. Okay. So when you said trappings of power, etc., what do  
6 you mean?

7 A. Trappings of power as what comes with being a member of a  
8 government in any country, and more specifically in a poor  
9 country, it gives you -- you have a title, you're -- you  
10 automatically are considered more important than others because  
11 of your government title. It's exactly like here. If you're a  
12 member of the cabinet for the Secretary of State or Secretary  
13 of Defense, you automatically have a government car,  
14 bodyguards, etc., etc., your expenses are taken care of. It's  
15 all those things.

16 Q. So you're describing in Guinea.

17 A. Yes. But I was describing here, actually, right now.

18 Q. Okay. What about in Guinea?

19 A. It's that but in an even more visible way, because the  
20 discrepancy between the people who have and the people who  
21 don't are -- is even bigger, so any little advantages you can  
22 get from government is considered a lot.

23 Q. So let's go back to your meeting with Baker.

24 A. Yeah.

25 Q. What did you discuss or what was the purpose of those

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1 meetings?

2 A. The purpose was to instruct him on whatever monies he had  
3 for me then, monies he was expecting from our ongoing  
4 businesses to be directed in two ways: one, to take care of my  
5 family in New York; and two, to take care of me in Guinea,  
6 paying my rent and my expenses, etc.

7 Q. Now could you describe the kind of monies that you had or  
8 were expecting as related to Baker at that time.

9 A. If I described them, you said?

10 Q. Could you clarify and describe what you mean by that.

11 A. Well, we had been in business for, I don't know, maybe six  
12 years, a little more. We had done some transactions together  
13 that had made us money. We had just signed a few contracts  
14 that were scheduled to make us money. So he had accumulated  
15 money and he had money that was supposed to come. My business  
16 relationship with him was that most of the time he was the lead  
17 because I was at the bank and so payments were made to him,  
18 both his share and my share and, if we had other partners,  
19 their share, and it was his responsibility to hold and share  
20 that money, and he would periodically send me part of what he  
21 owes me, and if I owed other people, like some of my  
22 colleagues, I would basically then share what I received with  
23 them as well.

24 Q. How were you to take care of your living expenses while you  
25 were in Guinea?

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1 A. 100 percent through what Baker would be able to provide  
2 through various things. I had -- we had people who owed us  
3 money that we were hoping we had promises that they would pay  
4 back within that time period, so I was fairly confident that I  
5 could support myself and my family through that -- through that  
6 channel.

7 Q. All right. So let's go back to the time where you actually  
8 started working with the Guinean government. What happened  
9 when you first got to Guinea?

10 A. I landed I believe on -- on a Friday night, at the airport.  
11 The prime minister had a car and one of his advisers waiting  
12 for me to take me straight to the military camp, where the  
13 president stays. And so I arrived in the middle of a military  
14 camp just after a coup, so everybody was on high alert,  
15 everyone was armed to the teeth, and the soldiers that are  
16 considered the -- the action guys, those who went to combat and  
17 things like that, were on hand, and those were the scarier  
18 ones, usually, and I basically landed in the middle of that. I  
19 had just come out of an emergency because I had a sudden  
20 massive attack of diabetes that I was later told was stress  
21 induced, so I could barely see. I had lost about 15 pounds. I  
22 was weak and stressed. And I went to the camp to meet Dadis.

23 Q. What happened at the meeting with Dadis?

24 A. Well, I was ushered into what I thought would be his office  
25 but turned out to be his bedroom. I entered with the prime

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1 minister, who introduced me as Mahmoud Thiam, the person he had  
2 recommended and Dadis had agreed to appoint as minister of  
3 mines. I introduced myself. I told him in a sentence or two  
4 what I planned to do for the mining sector in Guinea within --

5 Q. Who was at that meeting?

6 A. Dadis, the prime minister, and myself.

7 Q. Anyone else?

8 A. No. The three of us.

9 Q. Okay. So what happened after you gave him the one- or  
10 two-sentence explanation of what you hoped to accomplish?

11 A. He said he liked the plan and that I had -- he had -- I had  
12 his support.

13 Q. What was the plan at that point?

14 A. At that point the plan -- because I accepted the post for  
15 12 to 18 months, the soldiers said they would be there for two  
16 years, so the idea was to put things in place within those 12  
17 to 18 months that would clear the way for the future  
18 democratically elected government to benefit from what we had  
19 done, to clean up what we had done. It was about getting  
20 Guinea out of a situation where Guinea was supposedly sitting  
21 on massive wealth underground, but that wealth had never been  
22 proven by anyone because the work and investment needed to  
23 prove that the wealth is there was never done, so Guinea always  
24 lived on the theory that Guinea was extremely rich in  
25 potential, but no one actually went and did the work to

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1 transform that potential into real wealth. So the goal was to  
2 pick the most advanced project in mining, pick five or six that  
3 would -- had the potential to transform Guinea, or Guinea's  
4 economy, and clear the way for them to be in production or that  
5 they would be on a path that no one could reverse to produce  
6 and export and actually start generating revenue for the  
7 country by the time the soldiers leave.

8 Q. Now when you said to pick the five most promising projects,  
9 were those five that were already in place?

10 A. Yes.

11 Q. And how were you aware of what projects were already in  
12 place?

13 A. They are not many, and if you follow the mining industry,  
14 they are known. It's -- some of them are world famous. Some  
15 of them are world infamous. But everyone knows. I knew the  
16 few main ones, and I discovered, I have to go at the ministry  
17 now, get debriefed and find out what else was there so my staff  
18 and I could decide which projects we would pick and push.

19 Q. What, if anything else, happened on that first meeting with  
20 Dadis?

21 A. That was the gist of it, I'd say. I told him that in my  
22 sense he had made some declarations regarding mining the few  
23 days prior that could be hurtful to the country because it  
24 could scare investors away, and I suggested we soften that  
25 message a bit.

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1 Q. What message was that?

2 A. Well, as many new governments in the mining or oil country  
3 that come to power, they declare that they're going to review,  
4 review and cancel all existing contracts because the country  
5 has been raped, etc., etc., and I told him you could achieve  
6 the same result without declaring that and having the entire  
7 world say that you're nationalizing, and I asked him for  
8 permission to change the message a little bit so we could  
9 achieve the same result without having the companies run away  
10 or start suing us.

11 Q. What did you want the message changed to?

12 A. Instead of revising and virtually canceling all existing  
13 contracts, I wanted the message to say that we are a country  
14 that respects the law and respects its existing contracts. All  
15 existing contracts are valid. However, we reserve the right to  
16 call our partners and renegotiate any clause of a contract that  
17 is illegal, that's outrageous, that's abusive, or that's not in  
18 par with existing international standards.

19 Q. Now the five existing projects that you mentioned a moment  
20 ago, did any of them include a project with CIF?

21 A. No.

22 Q. Could you describe how you were introduced to the project  
23 with CIF.

24 A. Well, that came months after. I started hearing the name  
25 Sam Pa I would say late January, mid February, probably closer

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1 to mid February, in the president's circle, but I was wondering  
2 who Sam Pa was. And then late spring, early summer, I would  
3 say around May, May/June, I received a call. I had guests. I  
4 had I believe board members of one of the mining projects who  
5 were working on -- in town for a board meeting, and I was  
6 hosting them. And I received a call from the minister of  
7 state, Boubacar Barry, asking me to immediately go to -- to a  
8 hotel downtown to meet a group of Chinese investors the  
9 president wants me to meet immediately. I told him I could not  
10 because I had guests at home. He said, It's not a request;  
11 it's an order. This is a military regime. You get to the  
12 hotel. So I got to the hotel.

13 Q. Now you said that it took some time before you first were  
14 introduced to the CIF representatives. Describe what you'd  
15 been doing in Guinea as the minister of mines up until that  
16 point.

17 A. A multitude of things. It's -- first of all, we started  
18 working on those five companies, called them in, asked them  
19 what they needed in order to progress, we told them we would  
20 give them all the help and support we could but in return we  
21 would stick them to a chronogram, because mining companies in  
22 Guinea were renowned for committing and then dragging it out so  
23 they could sit on the deposit for years, sometimes decades,  
24 without having to invest in developing them. In the meantime  
25 they make money because they list those reserves on their



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1 balance sheet and it affects positively their stock markets  
2 abroad, but as long as they don't invest and transform those  
3 reserves into production, the country makes no money, so the  
4 country remains poor while they make money.

5 Q. Was there an urgency to get those countries into production  
6 at the time?

7 A. Oh, yes, yes.

8 Q. Could you describe that, please.

9 A. Well, it comes out to what we were saying in the beginning.  
10 It was a very poor country. It had the potential to make  
11 money, but work on investments needed to be made to make that  
12 money.

13 The other thing is, very quickly the international  
14 community started putting pressure on the military to agree to  
15 relinquish power in less than the two years they had announced.  
16 The tensions between the military and the international  
17 community started growing, and the international community  
18 imposed sanctions in Guinea, which virtually dried out all  
19 sources of financial help from outside for Guinea.

20 Q. What do you mean by that?

21 A. Guinea, like most developing countries, lives on -- besides  
22 what they can produce and export, the country lives on  
23 international aid from the World Bank, from the IMF, from the  
24 European Union, etc., so when they are unhappy with you, they  
25 have a very effective tool of pressure, which is to stop

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1 funding you. Those countries borrow a lot. That's how they  
2 survive. And if they stop lending you -- lending to you,  
3 you're -- you're done.

4 Q. Was there anything about those sanctions that would have  
5 affected you as an individual when you took the government  
6 position?

7 A. Yes, absolutely, because the sanctions, in order to put  
8 pressure, they used the tool of sanctions to put pressure on  
9 every member of the government, so as an individual member of  
10 the government, you automatically became under sanctions, which  
11 means all your financial and economic means -- that's the exact  
12 text of the sanction text -- are frozen. Your ability to  
13 travel outside of Guinea into countries that respect the  
14 sanctions regime is stopped, so you cannot travel anymore.

15 Q. Now there's been some evidence in the case so far about  
16 your traveling.

17 A. Yes.

18 Q. So how is it that you were able to travel extensively  
19 despite the sanctions you're describing?

20 A. There were two reasons why. The -- the international law,  
21 I don't know if it's still the case, but at the time said that  
22 if a group takes power by means other than democratic, the  
23 international community has to put pressure on them for them to  
24 leave, and therefore sanctions are -- follow fairly quickly  
25 after. When it's a coup that in reality is welcomed by

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1 everyone -- because everyone was relieved that Lansana Conté  
2 and his entourage did not take over. The drug dealers did not  
3 take over, basically. They gave them some leeway, so they --  
4 the law says they have to impose sanctions in the beginning, so  
5 they imposed the sanctions, but they don't implement them as  
6 aggressively as they should. So that gave us a bit of leeway  
7 in the beginning. But as things -- as tensions mounted between  
8 the soldiers and the international community, because the  
9 soldiers would not yield, they tightened the sanctions regime.  
10 Luckily I had passports other than my Guinean passport. I had  
11 my French and my US passport. And as a French or US citizen, I  
12 was not sanctioned, so I could travel.

13 Q. Okay. So let's return to the moment where you were brought  
14 to the hotel to first meet representatives of CIF. Describe  
15 that for us.

16 A. Well, I went downstairs, I -- I do not remember, but I  
17 believe Boubacar Barry met me there. I met downstairs with two  
18 ladies, one who later turned out to be Madam Lo, and an  
19 interpreter, who introduced CIF. I first misunderstood and I  
20 thought it was CIC. CIC is a Chinese sovereign wealth fund, a  
21 very rich sovereign wealth fund that I had planned on visiting  
22 in China to see if I could convince them to come invest in  
23 Guinea, so I was very happy to be sitting with CIC, until I  
24 realized it wasn't CIC but CIF, and I asked them what CIF was.  
25 They said, we are very well funded as well. We are not state

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1 owned, we are a private entity, and there's nothing that CIC  
2 can do that we cannot do. They explained that they had a  
3 series of meetings with my bosses. That's how they put it.

4 And --

5 Q. And do you have an understanding as to what they meant by  
6 your bosses?

7 A. Well, the president. I -- I received a call from Bouba the  
8 president wants me to meet them.

9 Q. Who is Bouba?

10 A. Boubacar Barry. I'm sorry. Minister Boubacar Barry. And  
11 it's in the president's office or his waiting room that I had  
12 heard the name Sam a few times before, so I knew that the  
13 president and Sam had been meeting for a while and Sam had been  
14 meeting with people in the president's entourage. I did not  
15 know what the subject of the talks were, but I was aware of his  
16 existence.

17 Then Sam came down -- a gentleman came down, who  
18 introduced himself as Sam Pa, and I think his title was either  
19 CEO or chairman of CIF, and proceeded to tell me what they  
20 wanted to do in Guinea. I told him that there's room for  
21 everyone in Guinea. We had plans to go and invite some  
22 sovereign wealth funds from the gulf and from China to come and  
23 invest in Guinea, possibly into a state-owned mining company  
24 that we wanted to create, and we sought investment from  
25 sovereign and private funds.

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1 Q. Did you have any familiarity with state-owned mining  
2 companies before that moment?

3 A. Yes, yes, yes, yes.

4 Q. How did you gain that familiarity or understanding?

5 A. Well, in my work as a banker, we worked with, we advised,  
6 we sought business from many state-owned mining and oil  
7 companies.

8 Q. So describe what you mean by a state-owned mining  
9 corporation.

10 A. A state-owned mining company is a -- basically, it's a  
11 mining company, but instead of being a privately-owned mining  
12 company, it's owned by the government of the country where it  
13 operates. Most poor or developing countries that did well in  
14 mining or in oil and generated wealth for their populations at  
15 some point or the other created a state-owned mining company to  
16 take control of more and more of the mines and the production  
17 in their country so they could benefit from more and more of  
18 the revenue, and examples like Vale in Brazil, Saudi Aramco in  
19 Saudi Arabia, Abu Dhabi, Qatar companies, Malaysia state-owned  
20 mining companies, oil companies, all of those were very  
21 successful examples.

22 Q. Okay. So what else happened at the first meeting with  
23 representatives from CIF?

24 A. Well, I described what I had in mind in terms of attracting  
25 investments into the -- into the sector. He told me that they

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1 had a more global or strategic approach; it wasn't a pure  
2 mining approach. They wanted to invest in the country in  
3 general. That's what his discussions with the president had  
4 been about, that they had done it successfully in Angola and  
5 wanted to repeat the model in Guinea. Because I wasn't 100  
6 percent sure that he was who he said he was, I asked him about  
7 the few names of people he was dealing with in Angola. He  
8 dropped a few names, and I -- he told me about Mr. Manuel  
9 Vicente from Sonangol, which is the state-owned oil company in  
10 Angola, and I said, well, if this gentleman is your partner,  
11 can you come back with him so he can vouch with you the next  
12 time, he said yes. And I said, okay, I'll go report back to my  
13 bosses, and if they instruct me, we'll -- we'll proceed, bring  
14 Manuel back, and I went to report back.

15 Q. Did you perform any other research after that meeting?

16 A. Yes. I sent messages to a few friends who live or do  
17 business in China, who are connected in China, I sent messages  
18 to a few friends who are in Angola or do business in Angola to  
19 ask if they had heard of Sam Pa.

20 MR. GOLDSMITH: Mr. Beer, could I have you publish  
21 what's already in evidence as Government Exhibit 502.

22 Q. Now, Mr. Thiam, did you, other than contacting certain  
23 individuals -- withdrawn.

24 I'm sorry. Do you see Exhibit 502?

25 A. Yes.

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1 Q. And could you describe what Exhibit 502 is.

2 A. It's an email from myself to Bao-Wen Chen in -- in --  
3 basically introduced -- I said, "Hi, it's Mahmoud. Sorry. How  
4 are you? I'm now in Guinea, Conakry, as minister of mines and  
5 energy. We have a visit from a group called China Investment  
6 Fund headed by Sam Pa and Lo Fung Hung. Can you tell me if you  
7 know them or can you find out. Much appreciated."

8 Q. And who is Ms. Chen?

9 A. Ms. Chen is a friend of mine who is based in Shanghai,  
10 between Shanghai and Hong Kong, who is connect -- well  
11 connected in China, and she is in the business community. She  
12 would know. I thought if they were known, she would know of  
13 them.

14 Q. How did you know her?

15 A. I met her few years back through personal friends.

16 Q. What, if any, other research had you done other than  
17 contacting some individuals like Ms. Chen?

18 A. Well, we did the standard Google searches and things like  
19 that. It's a very secretive organization so we could not find  
20 a lot of public information. So I sent a few other emails to  
21 some other individuals. Some people came back saying, yes,  
22 it's a very big group. Some people described how big and  
23 successful they had been in Angola and other countries. And so  
24 my only recommendation to the president was to see if he would  
25 come back with Mr. Manuel Vicente. Mr. Vicente was known to be

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1 a very important and hard-to-reach person, and if this guy  
2 could make him travel to Guinea, it would say a lot about his  
3 relationship in Angola.

4 Q. Again, who is Mr. Vicente?

5 A. So Vicente was at the time the chairman of Sonangol, the  
6 Angolan national oil company, state-owned oil company.

7 Q. So what happened next?

8 A. I went back with I believe Mr. Boubacar Barry to the  
9 president's office, because he apparently was expecting us to  
10 come and report back. I came back and I told him that I had  
11 met them, that as far as I was concerned, there was no issue  
12 with them joining into -- to the Guinean economy and investing,  
13 but I suggested we do a few more checks about them to make sure  
14 that they are who they say they are, and I told him that I had  
15 asked of them to come back with Mr. Vicente so if Mr. Vicente  
16 returns, then we will have a bit more confidence.

17 Q. How did President Dadis react?

18 A. He said -- he said that he agreed with the approach and  
19 that we would wait for Mr. Vicente to come, but he had had  
20 several meetings with them, he had had an envoy travel to  
21 China, with the Guinean ambassador to China, and they had done  
22 their checks already and they were pretty much decided that  
23 they were going to do business with CIF.

24 Q. When you say they were pretty much decided, what do you  
25 mean?



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1 A. I mean, the decision was made that I was being informed  
2 that I'm being brought on now because I will play a role in the  
3 future, but I'm being called not to decide if we will do  
4 business but to be told that we will be doing business.

5 Q. So what did you do next in regards to the CIF project?

6 A. Nothing then. I waited until I would say ten days later,  
7 Minister Barry called me again and said, Pa Sam is landing this  
8 afternoon. We have to be at the airport. I asked him at what  
9 time, he told me 4 p.m. I said, okay, I'll be there. And he  
10 said, He's coming with Mr. Vicente. I said I had my doubts,  
11 but I said okay, that would be a good thing. So at 4 we were  
12 at the airport to wait for Sam because we had to take him to  
13 the president's office. He landed indeed at 4 as planned in  
14 his plane, and he came off the plane with someone who was not  
15 Manuel Vicente. I -- it was Manuel Vicente's number two. And  
16 I told him that's not number one. He said, number one is  
17 coming. And 20 minutes later Manuel Vicente's plane landed and  
18 we took them to the president.

19 Q. So what happened at that meeting?

20 A. Well, the president was very happy. He gave -- Manuel  
21 Vicente came with a message from the Angolan president to the  
22 president, salutation message, and a recommendation message of  
23 CIF, telling the president how well CIF had done for Angola,  
24 the billions of dollars they had invested in Angola, the trips  
25 they had created, and that they recommended them.

H511thi7

Thiam - Direct

1 Q. Where is Angola?

2 A. Angola is on the West Coast of Africa, in the central  
3 region of Africa, in the region called the Gulf of Guinea.  
4 It's a very well-known region for its oil reserves. It's very  
5 rich in oil.

6 Q. What happened after that meeting between Mr. Vicente, the  
7 president, Mr. Pa, and yourself?

8 A. The president asked him to stay a few days, asked the prime  
9 minister to host them, and had a massive reception, official  
10 reception organized I believe the next day or two days later  
11 for them at one of the official presidential villas, because  
12 Mr. Vicente came as an envoy of the president of Angola, so he  
13 hosted them. There was a massive reception where -- there's a  
14 group called the Guinean National Ballet. It's a national  
15 dance troupe from the revolutionary time that's trained in  
16 singing in every language of former communist countries, so  
17 they knew songs in Chinese, so they sang in Chinese to our  
18 Chinese guests. It was a big -- a big event.

19 Q. Anything else important happen at that particular event?

20 A. It was decided that the prime minister would take over from  
21 there, the talks, and it was agreed that a delegation would  
22 leave almost immediately on a further due diligence trip to  
23 countries where CIF was active to look at what they had done,  
24 ending in meetings in Singapore, where we would start working  
25 on the implementation of the first agreements.

H511thi7

Thiam - Direct

1 Q. You said that the prime minister was going to be going.  
2 Would he go alone?

3 A. No. The prime minister would be put in charge of the  
4 process from then on, of implementation. He was not -- the  
5 prime minister doesn't travel for those things. He sends  
6 ministers.

7 Q. So who got sent?

8 A. It was decided that Minister Boubacar Barry would lead the  
9 delegation. I would accompany him. The president was sending  
10 one of his closest adviser -- advisers and the Guinean  
11 ambassador to China who I now -- then understood was the origin  
12 of introducing CIF to the president, was also part of the  
13 Guinean delegation that was to travel.

14 Q. Who was considered the -- or who were you referring to when  
15 you say one of his closest advisers?

16 A. It's a gentleman called Theodore -- I forgot his last name.  
17 He was basically, if you come with the prime minister or the  
18 minister and you want to see the president, you have to go  
19 through that gentleman or else you won't see the president.  
20 That's how close he was.

21 Q. Did you end up going on that trip?

22 A. Yes, I did.

23 Q. And what did you do on that trip?

24 A. We -- well, I don't remember if it's on that trip that we  
25 went to Angola first, but I know that we ended up in Singapore.

H511thi7

Thiam - Direct

1 We had to split up. I went with the first group, which  
2 included Mr. Theodore and Guinean ambassador, we traveled with  
3 Sam and his -- and his people in their plane. Boubacar Barry  
4 stayed behind because he was waiting for some documentation to  
5 be completed by the government and some decisions to be made  
6 and some power of attorney to be drafted and granted to him.  
7 So he was asked to stay behind and follow up. And we went  
8 almost as an advance team, basically.

9 Q. What, if anything, happened on that trip?

10 A. When we ultimately reached Singapore -- I don't remember if  
11 we stopped someplace else -- we had initial meetings and  
12 presentations in the Singapore headquarters of CIF. Mr. Manuel  
13 Vicente was already there because some agreements were supposed  
14 to be signed, some of the initial agreements.

15 Q. When you say initial agreements, what do you mean?

16 A. I mean, I don't remember which exact agreements were  
17 supposed to be signed there, but the agreements were signed in  
18 stages. I believe there was a -- an MOU first and then what  
19 they call an *accord-cadre*, which is a -- a master agreement.  
20 There was a series of agreements that would lead then to the  
21 shareholder agreement, which was the last one to be signed.

22 Q. Do you recall approximately what month that trip took  
23 place?

24 A. I would say it's around June, July 2009.

25 Q. Were you responsible for drafting any of those initial

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Thiam - Direct

1 agreements?

2 A. No, no. The drafting was left to -- for the technical  
3 team, one set up by the Guinean side and one set up by the  
4 Chinese side, and the two teams were exchanging corrected  
5 versions of the -- of the agreements.

6 Q. Were you on that technical team for Guinea?

7 A. No. No minister was on the technical team, on the  
8 technical committee.

9 Q. Do you remember when, in relation to that trip that you  
10 were just describing, the technical committee had been  
11 established?

12 A. It would have been established shortly prior to the trip  
13 itself. I believe there were -- there were two meetings I  
14 remember. I remember a meeting where a few ministers -- a few  
15 ministers were -- met in the prime minister's office to discuss  
16 the contours of the deal, and then the next day, the full  
17 cabinet meeting was organized, where the technical committee, I  
18 believe, the technical team presented -- presented the  
19 transaction, the contemplated transaction, decisions were voted  
20 on, I believe, we were authorized to travel by their cabinet,  
21 so --

22 Q. Let me stop you. Were you at that meeting of the Council  
23 of Ministers you just described?

24 A. Yes, I was. I was.

25 Q. Do you recall approximately when that took place?

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Thiam - Direct

1 A. In the first time -- in the first half of June 2009.

2 Q. And at that particular meeting of the Council of Ministers,  
3 was there a discussion of the shareholder agreement?

4 A. I do not remember specifically, but I know at some point it  
5 was agreed that the shareholder agreement would ultimately be  
6 arrived at, but there were a few steps to -- to go through  
7 before we reached a shareholder agreement.

8 Q. Okay. And who was -- well, let me rephrase that.

9 What was the technical committee comprised of? Who  
10 was in it?

11 A. There were a few technical committees. The first level  
12 technical committee, nonministerial -- I mean, I think the  
13 prime minister appointed one of the senior advisers -- was  
14 Mr. Camara, who has testified here, to lead the committee that  
15 would review the contract and negotiate it. The president had  
16 at least two of his top advisers on the committee, I'm sure the  
17 two names that Mr. Camara mentioned. And there might have been  
18 a few other people. Probably one of my -- the legal advisers  
19 from the ministry of mines would have been on. Someone from  
20 the ministry of finance, someone from the ministry of justice.  
21 Every minister or ministry would have contributed members. I  
22 remember the PM writing me and instructing me to issue a decree  
23 naming the committee, and I was sent a list of 17 people, so I  
24 remember the number 17 as a number of members of that  
25 committee.

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Thiam - Direct

1 Q. Did you have a role in negotiating?

2 A. No. I had the role --

3 Q. Let me back up a little bit. Did you have a role in  
4 negotiating the memorandum of understanding or the master  
5 agreement you just described?

6 A. The MOU, I had the contribution, not a role, because it was  
7 early stages and it was important that the contours of the  
8 transaction or the structure of the transaction be determined.  
9 If I can expand, it's -- it was important to do that because  
10 the original plan that the Chinese had was what was commonly  
11 known as a global deal. A global deal had become --

12 THE COURT: Excuse me. I don't think we have a  
13 question pending to which this is an answer.

14 MR. GOLDSMITH: Sure.

15 Q. So please describe what a global deal is.

16 A. A global deal is the way the Chinese government and Chinese  
17 companies had been approaching African countries, resource-rich  
18 African and Latin American countries in the previous years,  
19 which, in a nutshell, meant, we know you have natural  
20 resources. They usually went into countries where the extent  
21 or the value of the natural resources was more or less known.  
22 We know you are cash strapped. We will come in and build  
23 roads, railways, ports for you. In return, you give us these  
24 reserves. And those deals had been signed in the DRC and other  
25 countries and had not been --

H511thi7

Thiam - Direct

1 Q. What is the DRC?

2 A. The Democratic Republic of Congo. And they had not been  
3 successful.

4 Q. In what sense were they not successful?

5 A. They were not successful because the countries usually have  
6 a very poor knowledge of how much natural resources they truly  
7 have, so they enter into a deal where those resources are  
8 valued mostly based on what the Chinese investor tell them they  
9 are worth. So they'll come and tell you, we'll build  
10 \$2 billion worth of railroads for you, you give us \$2 billion  
11 worth of reserves. No one knows if those reserves are not  
12 worth \$10 billion. Then the \$2 billion worth of railroads very  
13 often end up being half a billion dollars' worth of railroads,  
14 but no one is really able to value those, those railroads, so  
15 the deals were never -- never led to sustainable development in  
16 the country, basically. So we were trying to avoid that.

17 Q. All right. And what did you do from there?

18 A. From there -- so my contribution was just to make sure that  
19 it wasn't a global deal, that the spirit of the deal was that  
20 China, the CIF, would come co-invest with the Guinean  
21 government, they would fund -- they would spend the money in  
22 advance, and they would only get back profits from projects we  
23 do together if and when those projects are profitable. And we  
24 would only pay them back from our share of the investment from  
25 those future profits.



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Thiam - Direct

1 Q. So if you could simplify that a little bit. Please  
2 describe what you hoped to attain with a CIF deal.

3 A. What we hoped was for a massive injection of cash into the  
4 Guinean economy. That cash would go into areas that were  
5 crucial for getting Guinea out of poverty. It would be crucial  
6 for building our rail infrastructure, our road infrastructure,  
7 because all the private mining projects that were being  
8 developed in Guinea, I would say 80 percent of them were not  
9 being developed because there was no rail or road  
10 infrastructure to extract that mineral. The cost of building  
11 that infrastructure was so high that the private companies that  
12 were developing the mines could not support the cost of the  
13 infrastructure and the Guinean government could not support the  
14 cost of the infrastructure. So if another investor came, CIF  
15 in this case, and built those rails, those roads, the airports,  
16 the hospitals, etc., automatically those mining projects that  
17 up to then could not go into development would be able to go  
18 into development, export, generate revenue, and pay Guinea its  
19 fair share of its revenues.

20 Q. Is it fair to say that the logistics or the infrastructure  
21 would help the profitability of the mining sector?

22 A. It would help the existence of the mining sector. It  
23 wasn't a matter of the mining sector existing and not being  
24 profitable. It was a matter of the mining sector not being  
25 existent. It was a -- an idea or a kernel of a mining sector.

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1 Everything was potential. And there was no real mining sector.  
2 There were few mines that actually exported. Everything else  
3 was exploration project that could take ten years to come into  
4 production.

5 Q. So let's get back to the first trip to Singapore.

6 A. Mm-hmm.

7 Q. What, if anything, happened in Singapore on that trip?

8 A. Well, we landed, and as I said, Boubacar Barry was delayed  
9 because the paperwork was not there, and he was the head of the  
10 delegation, the only one allowed to negotiate and agree and  
11 sign, and he was not there yet. So we went through a series of  
12 presentations.

13 Q. Why was Mr. Barry the only one who was able to sign?

14 A. Because he was the chairman of the committee and he's the  
15 person that the president knew and trusted and he's the person  
16 who had the powers, basically.

17 Q. Okay. Please continue.

18 A. Then so I reported back after the initial meeting to the  
19 prime minister, after two days, I reported back to him, about  
20 our progress, about who came in the delegation, and about a  
21 change that the Chinese side had asked be made in one of the  
22 things we had an understanding on prior to the trip.

23 Q. What's the change?

24 A. Originally we had agreed with the Chinese that Guinea would  
25 take 25 percent of the local joint venture companies that were

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Thiam - Direct

1 created, GDC, and China or CIF would take 75 percent. When we  
2 reached there, I believe after they checked with their lawyers  
3 and their bankers, apparently there's a provision in their  
4 bylaws or in the laws there that said that if they are to front  
5 100 percent of the project, 75 percent ownership was too low or  
6 not practicable. I don't know if it was a financial issue, I  
7 don't remember, or legal issue. So I reported that news back  
8 to the PM, proposed a fix for the problem.

9 Q. What did you propose as a fix for the problem?

10 A. I asked -- if we were asked to reduce from 25 to 10 or  
11 15 percent, I asked -- I asked CIF that we are allowed to, in  
12 compensation, take 10 to 15 percent into the parent company in  
13 Singapore that owns their share of the local company. So  
14 instead of 25 percent of the local company, we would get  
15 15 percent of the local, and 15 percent of the parent company.  
16 Effectively that would give us 27 percent of the local company  
17 as opposed to the 25 percent we had agreed on. So instead of  
18 going down, we were actually going up by two points through  
19 that fix. So I asked the prime minister, I informed the prime  
20 minister, I proposed, I suggested a solution, and I asked him  
21 to convene the cabinet, vote on it, decide on it, and send me  
22 instructions on how to handle it.

23 MR. GOLDSMITH: Now, Mr. Beer, could you please bring  
24 up Government Exhibit 506.

25 Q. And when you said you had asked the prime minister, what

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Thiam - Direct

1 authority did you have to make or enter into those changes at  
2 the time?

3 A. I had no authority. That's why I had to take -- to advise  
4 and take instruction.

5 Q. All right. Could you take a look at 506. Is that on the  
6 screen in front of you?

7 A. Yes.

8 Q. And could you describe what this communication is.

9 A. It's an email from me to the prime minister dated July 9,  
10 2009.

11 Q. And what is the purpose of the communication?

12 A. Well, I was reporting back, I -- informing him that -- that  
13 I'm reporting back on our current mission in Asia with CIF,  
14 that I traveled with Mr. Kourouma, the personal representative  
15 of the president, and --

16 Q. Is that the individual you were discussing earlier that you  
17 couldn't remember the name of?

18 A. Yes. I say representative of the PRG, which is the  
19 President of the Republic of Guinea, PRG. Our ambassador in  
20 China, Mr. Diare, and myself arrived in Singapore, and I am  
21 informing that Mr. Manuel Vicente, the chairman of Sonangol,  
22 was already there waiting for us.

23 Q. And if you skip down to the second to last, and last large  
24 paragraph.

25 A. The last large paragraph, yes.

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1 Q. Yes.

2 A. Should I read it?

3 Q. What is this describing?

4 A. This is describing what I just explained, where we hit the  
5 point of disagreement about the fee, the sharing of the equity  
6 in the local GDCs, and the Chinese felt that 25 percent was too  
7 high and that we should go down to 15.

8 Q. What does the last line state?

9 A. The very last line of the email?

10 Q. Yes.

11 A. I left -- "I left the board to assess the situation and  
12 notify us of the decision." If I may, this --

13 THE COURT: Excuse me. Do you have a question,  
14 counsel?

15 MR. GOLDSMITH: Yes.

16 Q. And what did you mean by stating that last line?

17 A. I did not say that.

18 Q. Well --

19 A. That was a bad translation.

20 Q. What did you say?

21 A. I said I leave it to the cabinets, I leave it to him and  
22 the cabinets to assess the situation and instruct me of their  
23 decision.

24 Q. All right. So instead of "I left the board," it was "I  
25 leave it to the board."

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Thiam - Direct

1 A. No. "I leave it to the cabinet," not the board. It's the  
2 cabinet of ministers, the government.

3 Q. What, if anything else, happened on that trip to Singapore?

4 A. Well, then we waited. I was in touch with Guinea. I was  
5 receiving from CIF draft documents that I forwarded to the  
6 prime minister's advisers in Guinea and vice versa, so I was  
7 kind of a messenger between the two sides.

8 Q. Ultimately what happened on that trip?

9 A. Ultimately Mr. Boubacar Barry came with all the documents  
10 and the powers, after what I understand are a few more meetings  
11 in Guinea, and -- and I believe we did -- he did execute some  
12 of the documents. He did sign some of the documents. Some of  
13 the documents were sent to sign, yes.

14 Q. Now when you say that Mr. Barry arrived with the documents,  
15 which documents are you talking about?

16 A. He was supposed to come with first of all powers; he was  
17 supposed to have legal official powers to be the signatory. He  
18 was supposed to come with some documents from Guinea that were  
19 necessary for us to take shares into the -- into the JV as per  
20 Singaporean law.

21 Q. What do you mean the JV?

22 A. The joint venture between Guinea and Singapore had to be  
23 created, and some documents on -- legal documents from the  
24 Guinean side would have been required under Singaporean law to  
25 permit Guinea to take -- to take participation in that company.

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Thiam - Direct

1 Q. And when you say the joint venture, is that what we've  
2 commonly been referring to at this trial as the CIF investment  
3 project?

4 A. As ADC, yes, African Development Corporation, which is a  
5 JVC between CIF and the government of Guinea.

6 MR. GOLDSMITH: Mr. Beer, could you please publish  
7 Exhibit 504.

8 Q. Mr. Thiam, is 504 up on your monitor? Do you see it?

9 A. Yes.

10 Q. And what is this document?

11 A. Seems to be an email from myself to my secretary, where I  
12 ask her to please print, and it seems to have attachments,  
13 China Guinea Development PTE LTD and Singapore bank account  
14 opening documents.

15 Q. If you look directly below the top portion, is there what  
16 appears to be a forward email?

17 A. Yes. It looks like. It's an email from Jimmy Leong.

18 Q. Who is Jimmy Leong?

19 A. Jimmy Leong was one of the senior employees of CIF. He  
20 could have been the CI -- the CEO of their Singapore  
21 operations.

22 Q. All right. Quickly review the email sent to you from  
23 Mr. Leong. You don't have to read it out loud. If you could  
24 just read it and let me know you've finished reading it.

25 A. Okay.

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Thiam - Direct

1           Okay.

2       Q.   And what does this email reference?

3       A.   Well, it's -- I believe they are sending us a list of the  
4       documents they require that Guinea needs to have to satisfy its  
5       part of the -- of the incorporation, and it says that it's --  
6       that he's calling Mr. Cheung in Guinea and will help us collect  
7       those materials if necessary.

8       Q.   Okay.   What happened next after Mr. Barry executed the  
9       agreements in Singapore on this trip?

10      A.   I -- I don't remember.   We might have returned home, we  
11      might have traveled onto other places with CIF.   I know there  
12      were several trips, but I don't remember the chronology.

13      Q.   Do you recall ever going back to Singapore after that first  
14      trip?

15      A.   Yes.   We went to Singapore and Hong Kong several times,  
16      yes.

17      Q.   How many times do you recall going to Singapore and Hong  
18      Kong?

19      A.   I don't know.   Over what period of time?

20      Q.   Over the period of time from let's say June of 2009 to  
21      October of 2009.

22      A.   I would say maybe three, four times.   I might be wrong, but  
23      I -- I think.

24      Q.   And who were you traveling to Singapore and Hong Kong with  
25      on those trips from June to October of 2009?



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1 A. Most times Sam Pa. We were traveling most times in his  
2 plane. He would stop by Guinea, pick us up, we would go to  
3 Angola, we would go to other places and end up in Singapore and  
4 Hong Kong.

5 Q. What were the purpose of those trips?

6 A. It was a combination of due diligence trips, implementation  
7 trips, continued conversations that -- visiting factories and  
8 industries in China and Chinese provinces that would be  
9 suppliers of -- under the agreements we had.

10 Q. How long were you -- or were these trips taking?

11 A. Could go from few days to a few weeks.

12 THE COURT: Counsel, is this a good time to break?

13 MR. GOLDSMITH: Yes, your Honor. Thank you.

14 THE COURT: Yes. So ladies and gentlemen, remember,  
15 do not discuss the case. We'll start tomorrow morning at 9:30.  
16 Have a good night.

17 (Continued on next page)

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1 (Jury not present)

2 THE COURT: You may step down.

3 THE WITNESS: Thank you.

4 THE COURT: So Mr. Goldsmith, how much longer do you  
5 expect your direct to take?

6 MR. GOLDSMITH: Probably an hour.

7 THE COURT: And do you have any other witnesses?

8 MR. GOLDSMITH: No.

9 THE COURT: And it sounds like we should have the  
10 charging conference then tomorrow morning. As I remember,  
11 counsel wanted the draft charge at 8 a.m. We'll have the  
12 charging conference at 9.

13 Is there anything we need to discuss this evening?

14 MR. DiMASE: Your Honor, with respect to the charge, I  
15 was wondering whether the Court could share just one part of it  
16 earlier than 8 a.m. tomorrow, possibly this evening? That is  
17 the Court's instruction on Guinean bribery law. As the Court  
18 is well aware, that is really where the dispute lies in this  
19 case, and having an idea of where the Court stands on that  
20 instruction I think would help us frame our closing arguments,  
21 which I understand will also be sometime tomorrow.

22 THE COURT: Well, there was basically no dispute on  
23 the elements of Guinean law so I'm not planning to surprise  
24 you.

25 MR. DiMASE: Fair enough.

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1           THE COURT: I have looked at your requests to charge.  
2 I plan to give a more detailed instruction that follows the  
3 expert's testimony that you presented to me and that was  
4 undisputed. And I give separate charges on 192 and 194. I am  
5 going to say, in terms of the elements about whether or not the  
6 act was fair or not, and that's language that comes out of the  
7 statute, that it is irrelevant whether the defendant might have  
8 lawfully or properly engaged or refrained from engaging in the  
9 act. It is also irrelevant whether the defendant was the final  
10 decision maker or even able to achieve the objective of the  
11 bribe.

12           I also, separately from that, am toying with a charge  
13 on the benefit to Guinea and planning to say something like the  
14 following: "You've heard testimony about the extent to which  
15 Guinea did or did not benefit or was expected to benefit or not  
16 from its agreements with China International Fund and related  
17 entities and the extent to which those agreements complied with  
18 certain provisions of Guinea's laws. As I've told you, it  
19 violates of the law of Guinea for a public official to be  
20 offered, solicited, or receive a bribe in return for engaging  
21 or refraining from engaging in an act connected with his  
22 official position. This is true whether the acts will or will  
23 not benefit Guinea. Similarly, if you find that the government  
24 carried its burden of proving beyond a reasonable doubt each of  
25 the elements of the crimes charged in Counts One and Two, each

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1 of which charges a violation of United States law, it is  
2 irrelevant whether Guinea did or did not benefit from its  
3 agreements with China International Fund and others." But I'm  
4 still working on that language.

5 Does the government have anything else to discuss  
6 tonight?

7 MR. KOBRE: No, your Honor.

8 THE COURT: Mr. Goldsmith.

9 MR. GOLDSMITH: Nothing, your Honor.

10 THE COURT: Okay. Now, Mr. Goldsmith, you had raised  
11 the issue earlier about 404(b) issues, and I know you wanted to  
12 talk about that with the government.

13 MR. GOLDSMITH: Yes. We started some conversations  
14 about it earlier. In a nutshell, the government's views -- the  
15 material that they had globally referred to earlier as  
16 impeachment material, appropriate for their cross-examination,  
17 I think obviously we'll continue to discuss things this evening  
18 to narrow that down.

19 THE COURT: Thanks so much.

20 Have a nice evening.

21 THE DEPUTY CLERK: All rise.

22 (Adjourned to May 2, 2017, at 9:00 a.m.)  
23  
24  
25

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